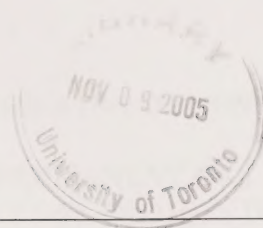




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Official Report of Debates (Hansard)

Wednesday 26 October 2005

Journal des débats (Hansard)

Mercredi 26 octobre 2005

**Standing committee on
regulations and private bills**

**Comité permanent des
règlements et des projets
de loi d'intérêt privé**

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLSCOMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ

Wednesday 26 October 2005

Mercredi 26 octobre 2005

*The committee met at 1001 in committee room 1.*UNIVERSITY OF ST. MICHAEL'S
COLLEGE ACT, 2005PONTIFICAL INSTITUTE OF
MEDIAEVAL STUDIES ACT, 2005

Consideration of Bill Pr13, An Act respecting The University of St. Michael's College, and Bill Pr21, An Act to incorporate The Pontifical Institute of Mediaeval Studies.

The Chair (Ms. Marilyn Churley): Good morning, everybody. I'd like to call the standing committee on regulations and private bills to order. The first order of business is Bill Pr13, An Act respecting The University of St. Michael's College. The sponsor is Peter Fonseca. Would you like to introduce the bill?

Mr. Peter Fonseca (Mississauga East): It is my pleasure to introduce this bill. I will be introducing two bills simultaneously, Bill Pr13 and Bill Pr21, as they both impact each other.

For Bill Pr13, An Act respecting The University of St. Michael's College—we have many heavy hitters here today—it is a pleasure to have the former Prime Minister, the Right Honourable John Turner, as counsel to this piece of legislation. We also have Richard Alway, the president. And for Bill Pr21, An Act to incorporate The Pontifical Institute of Mediaeval Studies, we have James McConica and Peter Lauwers, who will be speaking to these two pieces of legislation.

The Chair: I now understand what the clerk was trying to tell me. We're going to be dealing with these two bills together. All right.

Welcome, everybody. I would ask the applicants, Richard Alway and the Right Honourable John Turner, to begin.

Rt. Hon. John Turner: Thank you for your time here in the Legislature. I want to thank Peter for sponsoring this bill. I've known a number of members around the table for a long time.

Dr. Alway is the president of the university and Father Jim McConica is the president of the pontifical institute—they both share the same campus at St. Michael's, just around the corner from the Legislature—and my partner Peter Lauwers.

With your permission, I want to speak briefly to the two related bills before you. The University of St. Michael's College, affiliated with the University of Toronto, is the pre-eminent Catholic university in Ontario. I might say, it's the pre-eminent Catholic university in the country. It was established by the Basilian Fathers and originally incorporated in 1855. As members will know, it's located just a stone's throw away from the Legislature.

The university now operates under legislation enacted in 1958. This application is made to repeal and replace the 1958 act with updated legislation that better reflects the governance needs of the university, and better reflects modern governance practices in the corporate and non-profit world. Under the 1958 act, a majority of the collegium, which is the equivalent of a board of directors, consisted of members of the administration of the university. In 1958, the administration largely consisted of members of the Basilian order. The Basilian priests have gradually withdrawn from active administration of the university, and it's now time to review the governance of the university.

The proposed new legislation before you principally incorporates the recommendations of a governance task force established by the university. The task force consulted all the various interested constituencies: the faculty, the administration, the students, the community, the alumni, and after that, recommended current governance practices, particularly that the composition of the collegium of the university be amended to permit a majority of external members on the collegium. In other words, the board will no longer be an internally controlled board; it will be controlled by external members freely elected and appointed from outside the immediate administration.

The bill clears up an oddity in the 1958 legislation, being a provision that made the collegium a separate corporation from the university. This is like the board of directors being a separate corporation from the company that it's supposed to govern. We've eliminated that, or you will eliminate that. The university never operated that way, and we need to clear up the confusion.

This brings us to the Pontifical Institute of Mediaeval Studies. My partner, Peter, has asked me to speak briefly to that. The institute, of which Dr. McConica is the president, was founded in 1929 as the Institute of Mediaeval

Studies, and was canonically erected as the pontifical institute on October 18, 1939, by decree of the Sacred Congregation of Seminaries and Universities of the Holy See in Rome. Under the University of St. Michael's College Act, 1958, the institute was merged with and established as a graduate school of research and theological studies with the university, while retaining its own internal organization and academic autonomy.

As I've noted, the effect of the proposed University of St. Michael's College Act before you would be to establish a form of external governance, rather than governance by officers of the college. The bill would remove the authority of the Superior General of the Basilian Fathers to appoint a majority of the collegium of the university.

From the perspective of the code of canon law, and we had to operate within canon law—that was another study and you were lucky you weren't part of it—the canon law of the Roman Catholic Church, the effect of the proposed act before you would be to secularize the university. Under the code, the pontifical institute, however, must remain under the control of ecclesiastical authority in order to retain pontifical status. Both St. Michael's College and the institute very much want the institute to continue to have this very prestigious pontifical recognition. Recognition is important not only to the institute and St. Mike's, but to the province as well. There are no other pontifical institutes in the world outside of Rome, except for the pontifical institute here in Toronto. The status recognizes the tremendous academic work the institute has done over its long history.

The proposed Pontifical Institute of Mediaeval Studies Act solves the canon law problem by leaving control of the institute itself with the congregation of the priests of St. Basil and the Roman Catholic Archdiocese of Toronto, reporting to the Cardinal Archbishop of Toronto.

Despite the future separate corporate identities of the University of St. Mike's and the pontifical institute, the proposed acts continue the close relationship between the two organizations. The bills do a number of technical things to accomplish their purposes. They have been vetted by the Ministry of Training, Colleges and Universities, they've been vetted by your clerk and they've been thoroughly homeworked here at Queen's Park. We'd be happy, of course, to respond to any questions that you or your members, or your staff, would have.

The Chair: Thank you for that presentation. I would ask first if any of the other applicants would like to add anything, or did Mr. Turner do a thorough job? Thank you.

I would ask if there's a parliamentary assistant here—you still are?

Mrs. Maria Van Bommel (Lambton-Kent-Middlesex): I still am.

The Chair: I wasn't sure. Do you have any comments before we move on to questions?

Mrs. Maria Van Bommel: No comments at this time.

1010

The Chair: Are there any comments or questions from the committee members?

Mrs. Van Bommel: About Pr21: How many students are currently taking mediaeval studies?

Dr. James McConica: At the moment there are, I guess, about a dozen.

Mrs. Van Bommel: Would the students be impacted in any way by this bill?

Dr. McConica: Not at all, no.

The Chair: Any other questions? Are we ready to vote?

Since there are no amendments, shall sections 1 through 20 carry? All those in favour?

Interjection.

The Chair: Yes; I'm sorry. I should have clarified. We're now doing Bill Pr13, An Act respecting The University of St. Michael's College. So let me start again.

Shall section 1 through section 20 carry? All those in favour? Those opposed? Sections 1 through 20 carry.

Shall the preamble carry? All those in favour? Opposed? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

All right, that one is done. That was fast.

Now we're moving on to Bill Pr21, An Act to incorporate The Pontifical Institute of Mediaeval Studies.

Shall section 1 through section 17 carry? All those in favour? Opposed? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? All those in favour? Opposed? Carried.

Done. Thank you very much. That was most efficient. Thank you for a very concise presentation this morning.

Rt. Hon. Mr. Turner: Thank you, Madam Chair, and thank you, members. We're dealing with a very historic institution here and a neighbour of the Legislature. I'm glad it went through so well, and thank you, Peter.

Mr. Fonseca: St. Michael would be very happy today.

Rt. Hon. Mr. Turner: That's right.

The Chair: It's an honour to have you here this morning. Thank you very much.

1376037 ONTARIO INC. ACT, 2005

Consideration of Bill Pr20, An Act to revive 1376037 Ontario Inc.

The Chair: We'll now move on to Bill Pr20, An Act to revive 1376037 Ontario Inc. I'll just wait for a few minutes while we get Mr. Martiniuk back. Here he is.

Mr. Gerry Martiniuk (Cambridge): Thank you, Madam Chair. I am not Bill Murdoch.

The Chair: Will you please state your name for the record, Mr. Martiniuk?

Mr. Martiniuk: Gerry Martiniuk. I'm here on behalf of the applicant, Joerg Klein. What occurred here was a

rearrangement of Mr. Klein's affairs after a purchase of various properties. This is not a case where this corporation lapsed due to non-filing. In fact, instructions were mistakenly given to Mr. Klein's solicitor to actively apply for, by articles of dissolution, a dissolution of the corporation. It was subsequently determined that a valuable asset in the way of a campsite located on the Bruce Peninsula was left in the corporation, and that is the reason for this application: to regain control of that particular asset.

The Chair: Thank you very much. Now I would ask Mr. Klein, the applicant, if he would like to make some comments.

Mr. Joerg Klein: I'm just sorry that I made a mistake.

The Chair: It's too bad more politicians don't admit that. I will now ask if there are any other interested parties here who want to speak. No.

Parliamentary Assistant, do you have any comments?

Mrs. Van Bommel: We have checked with the Public Guardian and Trustee and we've talked to the Ministry of Government Services and the Ministry of Finance. They

have expressed no concerns about this, so as a government we have no concern.

The Chair: Are there any other questions or comments from committee members? No. Are the members ready to vote?

Mr. Khalil Ramal (London-Fanshawe): We trust her.

The Chair: Oh, you trust her.

Give me a second here to find the bill. Sorry about that. It was a late night. I have to admit I watched the ballgame through the 14 innings. Bear with me.

Shall sections 1 through 3 carry? All those in favour? Opposed? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? It's carried.

I'd like to thank all the parties and the committee today. I shall adjourn the meeting.

The committee adjourned at 1016.

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Wednesday 16 November 2005

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ

Mercredi 16 novembre 2005

The committee met at 1004 in committee room 1.

SUBCOMMITTEE REPORT

The Chair (Ms. Marilyn Churley): Good morning. I call the standing committee on regulations and private bills to order.

First we will have the report of the subcommittee on committee business.

Mrs. Maria Van Bommel (Lambton–Kent–Middlesex): I'm just going to read from the report itself.

Your subcommittee met on Wednesday, October 26, 2005, to consider the method of proceeding on the various private members' public bills referred to the committee, and recommends the following:

(1) That the committee meet on Wednesday, November 16, 2005, for clause-by-clause consideration of:

Bill 137, An Act to amend the Income Tax Act to provide for a tax credit for expenses incurred in using public transit;

Bill 58, An Act to amend the Safe Streets Act, 1999, and the Highway Traffic Act to recognize the fundraising activities of legitimate charities and non-profit organizations; and

Bill 153, An Act in memory of Jay Lawrence and Bart Mackey to amend the Highway Traffic Act.

(2) That the committee meet on Wednesday, November 23, 2005, for clause-by-clause consideration of:

Bill 209, An Act to amend the Highway Traffic Act with respect to the suspension of drivers' licences; and

Bill 101, An Act to amend the Health Insurance Act.

(3) That the committee meet on Wednesday, November 30, 2005, for clause-by-clause consideration of:

Bill 123, An Act to require that meetings of provincial and municipal boards, commissions and other public bodies be open to the public.

(4) That the committee meet on Wednesday, December 7, 2005, for clause-by-clause consideration of:

Bill 7, An Act to authorize a group of manufacturers of Ontario wines to sell Vintners Quality Alliance wines.

(5) That, in order to facilitate the committee's work during clause-by-clause consideration of all the private members' public bills, when time permits, proposed amendments shall be filed with the clerk of the committee by 2 p.m. on Monday, November 14, 2005.

(6) That the Chair write a letter to the three party House leaders advising them of the dates for clause-by-

clause consideration of the various private members' public bills.

(7) That the clerk of the committee, in consultation with the Chair, be authorized to commence making any preliminary arrangements necessary to facilitate the committee's proceedings prior to the passage of the report of the subcommittee.

The Chair: Thank you very much. We'll now move on to—

Mr. Gerry Martiniuk (Cambridge): Madam Chair, I have an amendment. We didn't vote on the acceptance of that.

The Chair: I'm sorry. I was just trying to slip it right by here. So we haven't voted. Yes, go ahead, Mr. Martiniuk.

Mr. Martiniuk: Mr. John Baird, who is the sponsor of Bill 101, An Act to amend the Health Insurance Act, has requested that the committee consider clause-by-clause on December 7, 2005, rather than November 23, 2005, as set out in the subcommittee report.

The Chair: Any comments?

Mrs. Van Bommel: No comments.

The Chair: All in favour? Opposed? That carries.

Mr. Martiniuk: Thank you.

The Chair: Shall the subcommittee report pass, as amended? All in favour? Opposed? It's carried.

INCOME TAX AMENDMENT ACT
(PUBLIC TRANSIT EXPENSE TAX
CREDIT), 2005LOI DE 2005 MODIFIANT LA LOI
DE L'IMPÔT SUR LE REVENU
(CRÉDIT D'IMPÔT POUR DÉPENSES
DE TRANSPORTS EN COMMUN)

Consideration of Bill 137, An Act to amend the Income Tax Act to provide for a tax credit for expenses incurred in using public transit / Projet de loi 137, Loi modifiant la Loi de l'impôt sur le revenu afin de prévoir un crédit d'impôt pour les dépenses engagées au titre des transports en commun.

The Chair: Now we move on to Bill 137. First of all, let me ask if there are any comments, questions or amendments to any section of the bill, and if so, which section?

Mr. John O'Toole (Durham): Thank you very much, Chair. I do appreciate this, and the government's indulgence in bringing this forward for public discussion.

If I'm allowed to enunciate, I do apologize that I have not formally submitted any amendment. At the same time, I would also thank the government for allowing it to receive some discussion.

I have been in touch with a number of experts from many of the transit authorities, asking—and I would say that for the most part, it's very well embraced. The problem, and I want to put it on the record, is this ability to provide a receipt. The administrative conundrum that that provides for someone buying a single ride ticket is the problem. What I'm suggesting is that the Canadian Urban Transit Association, and I think it's Dr. Roschlau—this is a national issue—believe there is a fair amount of interest in this to move ridership. Other jurisdictions have shown increases in ridership of as much as 20% to 30%. Again, the administrative burden of providing a receipt is the barrier. What I'm suggesting, and I put it to—Mr. Rinaldi, are you now the transportation PA? Who's—you are.

1010

Mr. Jean-Marc Lalonde (Glengarry–Prescott–Russell): No, I am not.

Mr. O'Toole: Yes, you were.

Mr. Lalonde: Not since last week.

Mr. O'Toole: But what I would like to recommend—and I could put it in a formal amendment to be dealt with, if that's acceptable to the committee—is to provide the minister with the opportunity to bring together the various authorities from GO Transit, TTC and the urban transit association to develop a model for implementation of the receiptable expense portion. It will take time. My belief and understanding from listening to the experts is that this should be tied to the implementation of a smart card.

The Chair: Can I just interrupt you briefly, Mr. O'Toole?

Mr. O'Toole: Yes.

The Chair: In that case, what you need to do is put that in a written amendment. Perhaps you might want to do that, and then we can discuss the amendment.

Mr. O'Toole: Yes. If you could set this aside—

The Chair: Is that OK with people, if we set this bill aside while Mr. O'Toole works on that amendment, and we'll come back to his bill?

Mr. O'Toole: Very good. Thank you very much for your indulgence, Madam Chair.

The Chair: OK. We'll just put that aside.

SAFE STREETS STATUTE LAW AMENDMENT ACT, 2005

LOI DE 2005 MODIFIANT DES LOIS EN CE QUI CONCERNE LA SÉCURITÉ DANS LES RUES

Consideration of Bill 58, An Act to amend the Safe Streets Act, 1999 and the Highway Traffic Act to

recognize the fund-raising activities of legitimate charities and non-profit organizations / *Projet de loi 58, Loi modifiant la Loi de 1999 sur la sécurité dans les rues et le Code de la route pour reconnaître les activités de financement des organismes de bienfaisance légitimes et organismes sans but lucratif.*

The Chair: We'll now move to Bill 58, An Act to amend the Safe Streets Act, 1999 and the Highway Traffic Act to recognize the fund-raising activities of legitimate charities and non-profit organizations.

Mr. Lalonde, are there any comments, questions or amendments to any section of the bill, and if so, which section?

Mr. Lalonde: The comment on that is the fact that ever since this bill—which was Bill 8—was introduced, it did affect charitable organizations. Muscular Dystrophy Canada said they have lost over \$1 million ever since the bill was put in place.

We received a lot of support for this bill, especially when we had the public hearings here. The Toronto Professional Fire Fighters' Association supported Bill 58, saying that they had to discontinue their boot collection they were doing in Toronto. Also, the London firefighters have said that. A lot of organizations—we also received support from the Club Richelieu, the Optimist Club, the Lions Club—were all saying that when this bill was introduced, it was not taken into consideration that those non-charitable organizations should not have been affected by this bill. This is why, at the present time, we have introduced the bill.

There are a lot of organizations that are weighing at the present time—like the city of Ottawa; they have what they call the boot drive during the Santa Claus parade, from which they lost something like \$800,000, which was going to charitable organizations.

At this time, there are some amendments that were sent to the committee, which I'm willing to listen to. That's what I have to say at the present time, Madam Chair.

The Chair: OK. There are—

Mr. Martiniuk: Chair?

The Chair: Yes, Mr. Martiniuk?

Mr. Martiniuk: I'll deal with the amendments now rather than delay. There are three amendments, if I could approach it.

First of all, I support Muscular Dystrophy and all other charities that wish to use this vehicle in order to collect money and do the good work they do in our communities. In Cambridge, the firefighters have, in the past, solicited funds for Muscular Dystrophy Canada, along with all other volunteers. They do good work; we want to encourage it. I was always—

Interjections.

The Chair: Excuse me one moment. Could I ask Mr. O'Toole if you'd mind just going to the end of the table, because it's a little bit disruptive. Thank you.

Go ahead.

Mr. Martiniuk: OK. I had always understood, quite frankly, when this act was passed originally that, by regu-

lation, these charities would be exempt. That never occurred, unfortunately. I therefore commend Mr. Lalonde for bringing this bill, which I think corrects an inadvertent mistake that was made in the original bill.

I should say I feel very strongly that Mr. Lalonde's bill is an excellent bill and I will be supporting it whether or not my amendments carry. However, I'd like to point out what I am concerned about in these amendments.

Bill 58 refers to two kinds of groups. The first is a registered charity. A registered charity must be incorporated. That's just the law. It must file books with the federal income tax charitable division in order that they can supervise and ensure that the monies being collected are going for charitable purposes. That's a view I'm sure that we all hold.

The second reference is to a non-profit organization. Let's understand that. A non-profit organization does not have to be incorporated. It may be; it may not. There are no rules. I've done a number of non-profit organizations, both incorporated and non-incorporated. Really, one person could start a non-profit organization by choosing a name and drawing a constitution and you have that organization. There would be no supervision of non-profit organizations, whereas there is very strict supervision of charitable corporations. There are two separate units. Non-profits—

The Chair: I'm going to interrupt you, hopefully for the last time. Because you've submitted three amendments, it would probably make sense—your comments are fine—to read one amendment at a time and then make your comments relating to each amendment.

Mr. Martiniuk: I just want to give the background first—

The Chair: OK, go ahead.

Mr. Martiniuk: —because I had trouble understanding the amendments, although they're quite simple. When you look at it out of context, they don't seem to make sense.

The Chair: OK, sorry.

Mr. Martiniuk: I'm only going to do this once. I'm not going to do it again when I come to the amendments.

Mr. Bill Murdoch (Bruce-Grey-Owen Sound): Thank God.

Mr. Martiniuk: Yes, thank goodness.

My concern is with the non-profit. My concern is very simple: that phony non-profit organizations could misuse this privilege. It's as simple as that.

Now, we do have a safeguard built into the bill that Mr. Lalonde has presented, and that is the municipalities. Unfortunately, many of our small municipalities certainly do not have the resources that, say, the federal income tax charitable division has in order to supervise, to ensure that these organizations are using the money properly. It's a very high onus to place on a municipality.

What's the solution? The solution is simply that we drop non-profit organizations entirely from the act and we stay with a charitable corporation, or it's referred to as a charity that's recognized by the income tax department of the federal government.

How would this work in practice? Let's use Muscular Dystrophy. This is, in a sense, where it started. It is a registered charity, pursuant to the Income Tax Act. All volunteers soliciting money for Muscular Dystrophy are of course agents of that company and they're exempt. The corporation is exempt from the workings of the act and so are the volunteers who would be soliciting money for Muscular Dystrophy. I'm using them as an example because it would apply to any charity in Canada.

Am I boring Mr. Murdoch?

Mr. Murdoch: Yeah.

Mr. Martiniuk: These amendments, I think, clarify and do what Mr. Lalonde wishes it to do, but I'd be pleased to hear what he has to say. We have to ensure that not only do we open this door for the good charities who do such good work in our communities, but we must ensure that the monies collected will go for charitable purposes. I think that is important.

That's all I have to say. There are three amendments which accomplish that. I don't think they detract from the intent of the bill, and I will be presenting them.

1020

The Chair: Thank you very much. I have Mr. Lalonde.

Mr. Lalonde: I just want to make a correction, Madam Chair, that when I referred to "non-charitable organizations," I refer to non-profit registered organizations. In my initial statement, I referred to non-charitable organizations. It is a recognized non-profit registered organization.

The Chair: OK. Mrs. Van Bommel.

Mrs. Van Bommel: Thank you, Chair. I agree with the intent of the amendments, all three of them. The one thing I would like to do is—I hate this, but I want to propose an amendment to the amendments. In particular, point 2—

The Chair: I just want to get some order here. The amendments haven't been officially tabled yet, so I think it would make most sense if we start going through the amendments, and then we can actually have an amendment to an amendment.

Mrs. Van Bommel: Absolutely.

The Chair: If we could go to your first amendment, Mr. Martiniuk, section 1 of the bill.

Mr. Martiniuk: I move that subsection 3(3) of the Safe Streets Act, 1999, as set out in section 1 of the bill, be amended by striking out paragraphs 1, 2 and 3 of that subsection and substituting the following:

"1. They are conducted by a charitable organization registered under the Income Tax Act (Canada) on a roadway where the maximum speed limit is 50 kilometres per hour.

"2. They are permitted by a bylaw of a municipality."

The Chair: Thank you very much. Now Mrs. Van Bommel.

Mrs. Van Bommel: I would like to propose that we amend the second point, "They are permitted by a bylaw of a municipality," to state, "They are permitted by a bylaw of the municipality in which the activity will be

conducted.” That’s simply to make it very clear that the jurisdiction over this is in the municipality in which this type of activity would occur, as opposed to a neighbouring municipality having that kind of jurisdiction.

Mr. Martiniuk: I consent to that. It was always the intent of the amendment.

The Chair: All right. Any other comments?

Mr. Kim Craiton (Niagara Falls): Just a question. I like your suggestion; I just want to be clear on it. I’m familiar with the groups that have the right to issue tax receipts, and then there’s all types of non-profits that we have right across Ontario that don’t have that authority, all kinds in Niagara Falls and Niagara-on-the-Lake. All of those are going to not be included in this?

Mr. Martiniuk: That’s the intent of the amendment.

Mr. Craiton: For example, many of the service clubs don’t issue tax receipts—Kiwanis. They don’t have those type of events, anyway. The ones that you want are just strictly income tax organizations—

Mr. Martiniuk: My service club, for instance—I was a member of Rotary. It had the Rotary organization, and then it had the Rotary Foundation. It issued tax receipts for the Rotary Foundation. So it could collect money for charitable purposes. As long as they used the foundation, which they use for that purpose, they would fall under this exemption.

Mr. Craiton: Good. Thanks.

The Chair: Shall we vote on the—

The Clerk of the Committee (Ms. Tonia Grannum): Sorry. Can I just get a clarification? Your amendment is, “They are permitted by a bylaw of the municipality in which the activity is conducted”?

Mrs. Van Bommel: Yes.

Mr. Michael Wood: May I make a comment?

The Chair: Go ahead, please.

Mr. Wood: I would suggest a few minor changes, the first being to say “in the municipality in which” instead of “of which,” and the second being instead of saying “the activity is conducted” to make it plural, “the activities are conducted.” That is a reference to the opening, flush, which says, “Subsection (2) does not apply to fundraising activities...” plural.

The Chair: So what is the wording now of the slight changes to the amendment to the amendment? Could you read it?

Mr. Wood: I would suggest that paragraph 2 would be, “They are permitted by a bylaw of the municipality in which the activities are conducted.”

The Chair: Is that OK?

Mrs. Van Bommel: That’s fine.

The Chair: Are we ready to vote on this amendment and the amendment to the amendment? OK.

First of all, shall the amendment carry? Carried.

Shall the amendment, as amended, carry? All in favour? Opposed? Carried.

That amendment, as amended, is carried.

Shall section 1, as amended, carry? All in favour? Opposed? That’s carried.

Now we move to section 2. Mr. Martiniuk.

Mr. Martiniuk: I move that subsection 177(3.1) of the Highway Traffic Act, as set out in section 2 of the bill, be amended by striking out paragraphs 1, 2 and 3 of that subsection and substituting the following:

“1. They are conducted by a charitable organization registered under the Income Tax Act (Canada) on a roadway where the maximum speed is 50 kilometres per hour.

“2. They are permitted by a bylaw of a municipality.”

Again, I would accept the amendment so that it reads as in subsection (3).

Mrs. Van Bommel: I agree with that. Thank you very much for that.

The Chair: Any other comments or questions on this amendment?

Mr. O’Toole: Mr. Murdoch is raising the question, does this correct the problem of solicitation on roadways by organizations like firefighters? That’s been the one I’ve heard about—charitable organizations. Does this correct that problem?

The Chair: Who can answer that question?

Interjection: Could he repeat it?

The Chair: Could you please repeat the question?

Mr. O’Toole: The question is, does this clarify or correct the current problem where certain groups are unable to solicit on roadways?

Mr. Lalonde: The muscular dystrophy? This corrects that.

Mr. O’Toole: This corrects that problem. That’s what I thought.

The Chair: Thank you. Any other comments on this amendment? Are we ready to vote on the amendment?

Interjections.

The Chair: Order, please.

Are we ready to vote on the amended amendment? Just in case you’re not clear, 2 is, they’re permitted by bylaw of the municipality in which the activities are conducted.

All in favour of the amendment, as amended? Opposed? Carried.

Shall the amendment, as amended, carry? All in favour? Opposed? That carries.

Now we’re ready to vote on section 2. Shall section 2, as amended, carry? All in favour? Opposed? That’s carried.

Moving right along, any questions or comments on section 3?

Shall section 3 carry? All in favour? Opposed? That’s carried.

Any comments or amendments on section 4? Seeing none, shall we vote on section 4?

All in favour? Opposed? Section 4 is carried.

I believe there’s an amendment to the long title. Mr. Martiniuk.

Mr. Martiniuk: I move that the long title of the bill be struck out and the following substituted:

“An Act to amend the Safe Streets Act, 1999 and the Highway Traffic Act to recognize fundraising activities of registered charities.”

The Chair: Any comments or questions? Are we ready to vote on this amendment?

All in favour of the amendment? Opposed? That's carried.

Shall the long title, as amended, carry? All in favour? Opposed? Carried.

Shall Bill 58, as amended, carry? All in favour? Opposed? Carried.

Shall I report the bill, as amended, to the House?

All in favour? Opposed? That's carried.

Thank you, Mr. Martiniuk.

The Chair: Mr. O'Toole, are you ready to go back to your bill? No? OK.

1030

JAY LAWRENCE AND BART MACKEY
MEMORIAL ACT
(HIGHWAY TRAFFIC AMENDMENT), 2005
LOI DE 2005 COMMÉMORANT
JAY LAWRENCE ET BART MACKEY
(MODIFICATION DU CODE DE LA ROUTE)

Consideration of Bill 153, An Act in memory of Jay Lawrence and Bart Mackey to amend the Highway Traffic Act / Projet de loi 153, Loi modifiant le Code de la route à la mémoire de Jay Lawrence et Bart Mackey.

The Chair: We shall move to Bill 153. Mr. Rinaldi.

Mr. Lou Rinaldi (Northumberland): I'll just make this very brief. Basically, what this bill will do is prevent people from riding in the back of pickup trucks. This has been through here before, and it died, but let me put this in context. The fact is you would not have a dog in the back of a pickup truck without being on a leash, yet we can have a person ride in the back of a pickup truck without any restraints. A person riding in the front seat of a vehicle like a truck—unless you have a seat belt, you can be fined, yet you can sit in the back of a pickup truck and not be fined.

There was an incident a few years ago where two young people lost their lives. Some research we've done shows clearly that, not only in Ontario but across North America, there are jurisdictions where there is legislation in place to control such activities.

As you know, the bill received first reading in the House unanimously, and we've worked very diligently with the Ministry of Transportation. They had some suggestions, mostly of a technical nature, so the amendments that we have here today are really of a more technical nature.

The Chair: Any others before the amendments are presented?

Mr. Murdoch: If you want to use this bill in Toronto or out where you're from, I don't care, but this isn't going to work in rural Ontario. If you're out working on the land and you want to go back to the farm, everybody piles into the back of a pickup and you go. If you pass this bill, you're going to have a lot of people getting charged in rural Ontario. If you want the bill for urban

Ontario, that's fine with me: You don't need it downtown here. But in rural Ontario, this one won't work. We tried this.

Mr. Rinaldi: We've worked with Ministry of Agriculture folks and the Ministry of Transportation and, through the amendments, we are going to address those concerns, Mr. Murdoch. Some of the amendments we bring forward will address those through regulations down the road. We're quite cognizant—we worked with folks from OFA; they were asked to comment on it. We're not going to stop somebody in a farmer's field or going across a driveway. But you can appreciate, somebody going 50 kilometres down the road, whether you're a farmer or not—to me, that's a detriment. The agricultural folks, the same as folks riding in parades and those things, are all going to be dealt with through regulations.

Mr. Murdoch: It still doesn't address the problem if you're out, you have three or four farms and you might be two miles away, and you're going home for dinner or supper. Everybody is out there working or whatever and there are a bunch of people helping you. If you want to go back, you're going to get charged. We went through this already when we were in government. I was against it there, and I'll be against it now.

The Chair: Can I ask that we perhaps go through the amendments and see if they satisfy your concerns. Are we ready then to move to your amendment to section 1?

Mr. Rinaldi: I move that section 188.1 of the Highway Traffic Act, as set out in section 1 of the bill, be struck out and the following substituted:

"Prohibited forms of riding

"188.1 (1) No person shall drive a commercial motor vehicle on a highway while any person occupies the truck or delivery body of the vehicle except in those circumstances and in accordance with those conditions prescribed by the regulations.

"Same—

Mr. Gilles Bisson (Timmins-James Bay): Point of order, Chair.

The Chair: He's in the middle of an amendment, which I have to let him proceed with. There's nothing out of order.

Mr. Bisson: I don't have a copy of the amendment. We have nothing.

The Chair: OK. We'll get you a copy. Sorry; proceed.

Mr. Bisson: It's kind of hard to follow along without—

The Chair: Can we just hold off and make sure everybody has a copy before we proceed.

Mr. Rinaldi: If we paid attention, then we would know.

The Chair: Has everybody got their copies now? Mr. Murdoch, do you have your copy now? Are we all right?

Mr. Murdoch: No, we're not all right, but we'll handle it.

The Chair: Is everybody all set? Proceed then, Mr. Rinaldi.

Mr. Rinaldi: Can I just carry on, Madam Chair?

The Chair: Yes.

Mr. Rinaldi: "Same

"(2) No person shall occupy the truck or delivery body of a commercial motor vehicle while the vehicle is being driven on a highway except in those circumstances and in accordance with those conditions prescribed by the regulations.

"Trailers

"(3) No person shall drive a motor vehicle on a highway while any person occupies a vehicle being towed or drawn by the motor vehicle except in those circumstances and in accordance with those conditions prescribed by the regulations.

"Same

"(4) No person shall occupy a vehicle being towed or drawn by a motor vehicle on a highway except in those circumstances and in accordance with those conditions prescribed by the regulations.

"Identification of passengers

"(5) A police officer or an officer appointed for carrying out this act who suspects that a person is contravening subsection (2) or (4) may require that the person provide identification of himself or herself.

"Same, compliance

"(6) Every person who is required to provide identification under subsection (5) shall identify himself or herself to the officer by surrendering his or her driver's licence or, if unable to surrender a driver's licence, by giving his or her correct name, address and date of birth.

"Power of arrest

"(7) A police officer may arrest without warrant any person who does not comply with subsection (6).

"Regulations

"(8) The minister may make regulations prescribing circumstances and conditions for the purpose of subsection (1), (2), (3) or (4).

"Scope of regulations

"(9) A regulation made under subsection (8) may be general or specific in its application and may apply differently to different classes of persons or classes or types of vehicles."

The Chair: Would you like to make any comments on your amendment?

Mr. Rinaldi: I think they were basically covered in my preamble. These were recommendations, if this bill is passed, to do some education and put some regulations in place.

The Chair: Mr. Wood, I believe you have a comment.

Mr. Wood: Yes, a comment about the fact that there is an alternative for the first regulation. The alternative would not be in order unless the committee obtains unanimous consent. But my understanding was that it was the preference of the mover to go with the alternative if he could obtain unanimous consent, because the effect of that would be to delete an existing section of the Highway Traffic Act that deals in a very similar, but not identical, way with this issue.

The Chair: Can you clarify what exactly it is he needs to do?

Mr. Wood: What the mover would have to do would be to get unanimous consent of this committee to use the alternative version of the motion instead of the version which he just did.

The Chair: Just give us a second until we clarify this.

Mr. Wood: The substance of the alternative is exactly the same as the first motion that has just been read. It's just that the numbering in the Highway Traffic Act would be different.

Mr. Rinaldi: OK.

The Chair: So what does he have to do?

The Clerk of the Committee: Do you wish to withdraw the first one and move the second?

Mr. Rinaldi: I will withdraw the first one, then, and ask for unanimous consent to move forward with the alternative.

Mr. Bisson: No.

The Clerk of the Committee: He does not need—
Interjections.

The Chair: Just one second. It is the same amendment, just an alternative with the correct—go ahead.

The Clerk of the Committee: You don't need unanimous consent. You either don't move number one and move number two—do you need both of them?

Mr. Wood: My reading of it is that you do need unanimous consent, because the second version would be seeking to delete an existing section of the Highway Traffic Act, and unless you have unanimous consent, you can't do that.

Mr. Bisson: No.

Mr. Martiniuk: No. Excuse me, Madam Chair—
Interjections.

The Chair: Just a second. Mr. Martiniuk.

1040

Mr. Martiniuk: I would like a clarification—and this is important as a matter of principle—as to when we can file amendments, because as I had understood at our last meeting where we discussed this, there is a new form where suggested termination dates are filed; they are not firm.

The Chair: That's correct.

Mr. Martiniuk: I'd like a clarification as to why unanimous consent would be required.

The Clerk of the Committee: Unanimous consent is required because the section of the Highway Traffic Act that the alternative motion is amending is not opened in this bill. That's the issue. Because the second, alternate motion deals with a section of the Highway Traffic Act that's not open in the bill, that motion would be out of order.

The Chair: Now Mr. Bisson.

The Clerk of the Committee: That's why you need unanimous consent.

Mr. Bisson: Just for the record, I echo some of the comments that Mr. Murdoch has put forward, because where I come from, when they're using their pickup trucks to haul wood or drag a Ski-Doo across wherever, whatever they might be using it for, responsible people don't drive their trucks 50 miles an hour down a dirt road

with somebody standing in the back. Anybody who does that—I've not seen it, because that would be foolish, quite frankly, and dangerous.

The concern we have is that far more often where we live, people will use their pickup truck or whatever it is to haul wood or do whatever it is. You need to move from this road down to where you're cutting the wood or whatever it might be, and all of a sudden, because you happen to be on one of the Queen's highways, you could be charged.

My problem is, you're saying, "Trust me; we're going to deal with this in regulation." Well, let me tell you, as my good friend Jean-Marc Lalonde knows, I've been around here long enough to know that's the big, black hole of Calcutta. At the end of the day you'll be lucky, as the author of the bill, for any of the regulations to do what it is you want, because it will be totally in the hands of the ministry and the lawyers, and once they get their hands on it, concerns like Bill and I are putting forward would never be taken into account.

For that reason, I oppose it. I understand what you're doing. I want to be clear on the record as a New Democrat that we agree with you on the safety aspect. That's not the issue here. We don't want people driving 50 miles an hour down the road with somebody in the back of the box, but 99% of people who use their pickup trucks are responsible, and they are not going down 10 miles of highway. They're moving from point A to point B to do whatever it is they're doing.

Mr. Murdoch: I want to echo what Gilles just said, except I want to add in there that we wouldn't have had the bill we just had before this bill if regulations had been done properly. When we debated that bill, we didn't mean for firefighters not to be able to do their jobs on the streets. Look at how that bill got messed up, and Jean-Marc had to bring a bill to straighten that out. That's what will happen here. I have to agree with Gilles all the way on this.

Mr. Rinaldi: Madam Chair, I fully understand where they're coming from, but the question I would put to you is—I mean, it happened to be in my riding, and research we've done right across North America is that people do ride in the back of pickup trucks. Call them foolish. People speed down the highway, and they're foolish as well. They're breaking the law.

Your question about the farmer or the logger who's moving down two concession roads, I understand that, but would we allow those folks to drive on the same road without licence plates or without drivers' licences? They still have to meet those regulations if they do that.

All I'm saying is, these things do happen. There were two lives lost here. There's a whole record of people who have had head injuries. Ontario is one of the few jurisdictions that doesn't have legislation to deal with this particular issue. It's not new. There are other jurisdictions as well.

Mrs. Van Bommel: First of all, I think the purpose in addressing some of these exemptions in regulation is that we have an opportunity to have the flexibility to change

them as situations and things change as well, so we can add exemptions or we can take them out as the government would see fit at any time in the future. Very often, a lot of these things are dealt with through regulation for that very reason; otherwise you have to go back to the act and completely amend the act. So there's that reason for putting it in through regulation.

Quite simply to Mr. Murdoch, in a farm situation, the proper use of a "slow-moving vehicle" sign would help a great deal. Most often, farmers are using that very thing right now to move things around from farm to farm. So there is already another option available to the farm community.

The Chair: Mr. O'Toole.

Mr. O'Toole: I just want to support what Mrs. Van Bommel has said. The way to avoid that—unless the vehicle is displaying a "slow-moving vehicle" plaque and you could put that in there, then it's not prescribed by regulation, because you're right: In some cases, I know, in my riding, during harvest time or planting time, they move, with an old truck, seed or equipment perhaps, from field to field, generally not on highways, but occasionally on provincial roadways, maybe not too often. They may not even have a licence, technically. I mean, tractors don't. Sometimes trucks that they may only use for one week of the entire year—so I'm saying, this case here that Bill has a problem with makes very good sense, because they may be moving, in the case of an apple farm, from orchard to orchard, transporting the people who are doing the picking and stuff in the back of a truck, safely hopefully, and at reasonable speed.

Anyway, I'm supportive of the concern, and I think it can be resolved by adding that small amendment.

The Chair: Mr. Bisson.

Mr. Bisson: I just want to say to the member, we're not trying to kill your bill here, and we're not trying to stop doing what your intent is. We agree that, philosophically, we need to do what's right, making sure that our highways are safe and people who are riding in vehicles are safe. That ain't the point here.

The point is that we should not do it by regulation. We should actually do amendments in this bill while we have control as legislators, because you know as the author of the bill what you want to do. What I hear you saying is you're accepting the argument that Bill and I are putting forward, something that could be dealt with by amending the bill.

What Bill and I are saying is, don't leave it to regulation. With all respect, Mrs. Van Bommel, don't defend those guys. At the end of the day, they're going to do what they want to do, and his bill is going to be whatever it is. He'll have no say on it. Let's not do it by regulation. Bring some amendments forward that deal with the concerns that Bill and I are putting forward, and we will be glad to support your bill.

We agree with the safety provision. We're just saying, do it by actual amendment. What I'm concerned about, for example, is—I'll just give you a couple of examples so you can think about them as you're drafting your amendments.

Tree planters is a good example. There are all kinds of activity in the spring when we're doing tree-planting. They often have to move their crews from one site to the other. Often, they'll use buses because those are at their disposal, but they'll sometimes dispatch their crews to an area where there isn't a bus. So they basically put benches in the back of the pickup truck, and people sit in the back of the pickup truck, sitting down as they're moving to where they're going. They're not doing 60 miles an hour down the road. They're doing a reasonable speed. We've not had any incidences of people being hurt.

Other examples are families that go out to gather firewood. Often, the way that you do it is you start to collect wood from different areas, because the rule is you can't chop down the tree that's grown. You've got to go in and take the tree that's been blown by wind or has been left there by the forestry company. So you're moving from this spot to 200 metres down the road. Everybody jumps on the back of the truck, and along you go. If it's on a dirt road, the Highway Traffic Act might apply, depending on whether it was a road that was built by provincial funding.

So you get into this situation where you're going to stop people from doing what it is they normally do as a way of life for a number of years. We're just saying we need to cover that off in amendments to the bill, not by regulation, and we'll support you.

The Chair: Thank you, Mr. Bisson. Mr. Martiniuk.

Mr. Martiniuk: I just have a point of information. I'd like someone to explain to me why the second motion would be out of order. The original Bill 153 refers particularly to section 188.1, which, I take it, is incorrect. A motion is before this committee to correct a mistake in the original bill that was passed on two occasions. I'd like to know why that is out of order.

The Chair: Mr. Wood, could you once again clarify this matter, please? Could I have order, please?

Mr. Wood: The first motion, which amends section 188.1 of the Highway Traffic Act, actually is not out of order, because the bill, as originally introduced, presents a new section 188.1. It's the second motion that would be out of order. The reason that it's out of order is that it seeks to open up another section of the Highway Traffic Act not already opened up by this bill, namely section 188. The effect of it would be to take all the substance in the first motion for section 188.1 and, instead, put it into the existing section 188 and replace the existing section 188 of the Highway Traffic Act.

1050

The Chair: Thank you. Mr. Rinaldi.

Mr. Rinaldi: I don't want to prolong, because I think we all agree on what we're trying to do here. Because there are a lot of things we need to deal with if this bill were to go through, to try to enshrine everything in a bill is almost impossible. Just like the bill that Mr. Lalonde just brought forward previously, we'll have the capability of dealing with the issues that arise that we might miss today.

The second piece, I will tell you, is that not too long ago, there were regulations in a traffic act. I'm not sure when. For example, firefighters cannot ride in the back of a truck any more. This is why municipalities go through great expenses to buy new trucks, to put seat belts in—even firefighters cannot ride in the back of a truck any more.

So I think it's consistent, and I really believe that we'll have plenty of time to work on regulations to make sure that we try to get it as right as we can.

The Chair: Mr. Murdoch, and then Mr. Bisson.

Mr. Murdoch: Like Gilles has said, we can't depend on those, and I just mentioned the bill before. Jean-Marc had to bring a bill through to straighten out a bill that was done, and it was wrong. I remember arguing on it and saying this was going to happen, and it happened. We had firefighters who couldn't do it, and we tried to tell them when we put that bill through. We were in the government, and it came out wrong. I'm afraid this one will too.

I'm glad you brought up firefighters, because in rural Ontario, if something down the road is wrong, you're right: Our firefighters couldn't jump in the back of the truck and all go down there to straighten it out because this would be against the law, and certainly, if a fire on a highway is happening, the police would be there and they'd all be charged.

Mr. Rinaldi: They can't do it now.

Mr. Murdoch: Well, they will now.

Mr. Rinaldi: No, they can't.

Mr. Murdoch: Well, they do. Why can't they now?

Mr. Rinaldi: It's against the law, Bill.

Mr. Murdoch: To jump in the back of the truck?

Mr. Rinaldi: That's right. Firefighters cannot ride in the back of a fire truck. Trust me.

Mr. Murdoch: Well, I guess—you see, again, this is the urban myth.

Mr. Rinaldi: No, no. This is in my rural municipality.

Mr. Murdoch: Well, I know you're from urban. You've got more urban than you've got rural, and this is the trouble when you get in rural Ontario, especially in northern Ontario. You think they're not going to jump in the back of that truck and go down because they have to? They're going to do it. And if we get more rules in like this, then we have trouble.

Now, as I say, we understand the safety of it, but I'll tell you, if you're banking on it, that the regulations are going to solve your problem, that somebody else is going to do it for you, I'm telling you, you haven't been here long enough to figure this place out. That's what they do to you.

The Chair: OK. Mr. Bisson, you're next. Thank you, Mr. Murdoch.

Mr. Bisson: I'm not going to get into detail. The problem is that once you hand it off to the people who draft regulation, you and I and the rest of us will have no control over what happens, the bill is going to be whatever it is in the end, and our concerns won't be fixed. So we're offering you a way of getting your bill passed. We

say that we will give you support to make that happen, but you need to put it in actual amendments to the bill. If it's regulation, we will not support it.

The Chair: Are we ready to vote on the amendment?

Mr. Murdoch: I thought you needed all consent.

The Chair: No. The first amendment is OK. Depending on what happens with this one, it will impact the second one.

All in favour of the amendment, please raise your hands. Opposed? It carries. So the amendment carries.

Shall section 1, as amended, carry? All in favour? Opposed? That carries.

We shall move to section 2. Shall section 2 carry? In favour? Opposed? It carries.

Shall section 3 carry? All in favour? Opposed? Carried.

Shall the title of the bill carry? All in favour? Opposed? Carried.

Shall Bill 153, as amended, carry? All in favour? Opposed? That carries.

Shall I report the bill, as amended, to the House? All in favour? Opposed? That carries.

INCOME TAX AMENDMENT ACT (PUBLIC TRANSIT EXPENSE TAX CREDIT), 2005

LOI DE 2005 MODIFIANT LA LOI DE L'IMPÔT SUR LE REVENU (CRÉDIT D'IMPÔT POUR DÉPENSES DE TRANSPORTS EN COMMUN)

Consideration of Bill 137, An Act to amend the Income Tax Act to provide for a tax credit for expenses incurred in using public transit / Projet de loi 137, Loi modifiant la Loi de l'impôt sur le revenu afin de prévoir un crédit d'impôt pour les dépenses engagées au titre des transports en commun.

The Acting Chair (Mr. Lou Rinaldi): We're dealing with Bill 137. Are there any comments, questions or amendments to any section of the bill, and if so, to which section?

Mr. O'Toole: Very briefly, I certainly want to thank Mr. Wood, legal counsel for the committee, who has taken the time to help draft an amendment here. The intent, of course, is to give this to the Ministry of Transportation and the government to implement on their own timeline together as they work to improve and enhance transit ridership in the province. I have before you an amendment.

The Clerk of the Committee: Let's deal with section 1 first.

The Acting Chair: Any amendments to section 1? Shall section 1 pass? All in favour of section 1? Carried.

Section 2.

Mr. O'Toole: I move that subsections 8.4.5(2) and (3) of the Income Tax Act, as set out in section 2 of the bill, be amended by striking out "50 per cent" wherever that

expression appears and substituting in each case "the percentage prescribed by the regulations."

The Acting Chair: Did you wish to speak to that at all?

Mr. O'Toole: Yes. This allows the minister and cabinet to prescribe by regulation an amount, not necessarily 50%. It could be phased in. It could be 5%, it could be 1%, it could be any per cent prescribed by regulation which would be approved in cabinet. That applies to subsections (2) and (3) of section 2. It doesn't tie the hands of the Ministry of Finance. What it does is encourage the industry and the stakeholders—because it's my understanding that there is a Greater Toronto Transit Authority being established and, in that, certain transits, like in York region, Durham region and other regions as well as other parts of Ontario, would bring forward suggestions of how to enhance their ridership. I can tell you, from the comments I've had—I've had an unbelievable amount of comments—from transit authorities and regional and local governments, that this does not tie the minister's hands in any way, not to a percentage and not to an implementation timeline. That's my argument.

1100

The Acting Chair: Any questions or comments?

Mr. Lalonde: One of the reasons I voted against it in second reading and again today is that I'm questioning this amendment. It only covers, really, the area that has public transportation. It doesn't cover the rural area at all, and at the present time we know that it is a major problem in all the surrounding areas of the urban sector. So I thought I would have seen in the amendment that this would cover the rural area also, but it doesn't, even though I do understand that in the amendment we don't specify, or we are striking out the 50%. Still, again, it only covers the urban sector or the area that has public transportation.

Mr. O'Toole: Could I respond to that, just quickly?

The Acting Chair: Sure.

Mr. O'Toole: It's my understanding—and I would give leave to legislative counsel—that if you look at section 8.4.5(1), in the definition section of "public transit expense," it doesn't preclude anyone who doesn't—if you don't have a transit system, if I lived in, let's say, Mr. Lalonde's riding, where they may not have transit, and I was to go into Ottawa and use transit—or in my case, we don't have transit in many parts of my riding but I can use GO Transit, which is part of Durham Region Transit. So even if I wasn't a resident, I'd still be eligible. So anywhere in Ontario, from Sudbury to North Bay, Thunder Bay and Ottawa, areas that have transit, the issue here is approved by the government, meaning that if you had a rail service, as we're suggesting is going to be developed from Peterborough to Toronto, that would be a transportation authority. Maybe it could be operated by GO Transit or VIA Rail transit. Do you see what I'm saying? I don't think, Mr. Lalonde, we are excluding anyone from taking advantage of the tax value.

Mrs. Van Bommel: As we went through the hearings, I had spoken against the bill, and I continue to have real

concerns about who will benefit from this bill. I see it's done as a tax credit. So in other words, you have to have an income that's taxable first, in order to benefit from this. There's no cap on the upper end of this. So the people who will benefit the most from it in terms of tax credit are the wealthy. I want to see something that would help those people who are of low income, because we want to encourage them as well. But this doesn't do that at all. It's a tax credit, and it does nothing to help them.

One of the other issues too is that—and I think it goes to Mr. Lalonde's issue of rural Ontario. As a government, we're trying to set up infrastructure. We feel our dollar should be spent on infrastructure in all parts of the province to make sure that—and that's where our tax dollars are going: to the municipalities. We're trying to work with COMRIF to make sure that we have the infrastructure. That's where our focus should be right now. I think it's sort of a thing of, "Which came first: the ridership or the system?" I think we need to develop the system first, before we can start addressing things for the ridership.

Mr. O'Toole: I don't like to get into a large, extended debate. I'm not in any way trying to be contrary with this in these arguments. I think it's important to understand the demographic issues on the user base. I wouldn't like to define someone who does or doesn't use transit as being completely related to income, which you are doing.

What you have said to me is this is a tax break for the rich. I think if you checked the statistics, the ridership profoundly is in favour of persons who may not have the luxury of a second vehicle or who, by age or other restrictions, need public transit. It could be persons with special needs—a number of very important areas. It really could be argued, quite contrary to what your argument is, that the vast preponderance of people who use it are the ones who would certainly need relief.

I put to you, as a contrary argument, what is one thing you've done to support low-income persons using public transit? If I look at your record so far, without being too personal, it's actually been the reverse. The evidence to me is that this discriminatory policy on the gas tax credit discriminates against the very people that Mr. Lalonde and you are supposed to represent and obviously don't, the people living in rural Ontario, who pay for gas tax and get no benefit from the gas tax credit being transferred to large urban areas. So I'm surprised and disappointed that you've brought this argument up, because now I have you on the record as saying that you don't support rural Ontario receiving part of the gas tax.

I prefer to think what I've done here to liberate you is allowed the minister all the controls, by setting the amount and the entitlements through regulation. It could be tied to income; it could be tied to what is prescribed by regulation—a threshold, a cap, as you said. That's what this amendment is attempting to do. I'm disappointed, quite frankly. This is, in policy, a very good idea. Your government will still get full credit for it if you do or do not implement it. To just echo the comments that I'm sure are in your briefings in response to

this, which you are doing, you're not really giving it, in my view, any reasonable consideration. Frankly, I'm disappointed. I don't say that in a personal nature, Mrs. Van Bommel. I just think that you have a history of serving the community, as I do and as all members do.

This is trying to help encourage people to use transit where and when possible. It could be innovative. In fact, I think it will be the law, irrespective of any work I've done on it. It's been done in 12 jurisdictions. It's very high profile in some of the academic circles. It's been discussed at conferences on public transit as giving a direct support to those persons on disabled transit and those persons who have an inability, with two people working, to have two cars. It addresses gridlock and the environment.

I've gone on, and I'm sorry that I've perhaps overreacted a bit. But I just sense that there's an unwillingness to move forward on this, and that's disappointing.

The Acting Chair: Thank you, Mr. O'Toole. Mr. Lalonde.

Mr. Lalonde: I definitely understand the intent of the bill. But you have to remember that when we introduced the gas tax, it was to try and have more people jump on public transit. That was the main purpose of it. I do recognize that all the rural municipalities were expecting to get a share of that gas tax for road maintenance purposes.

When I look at this, it would allow people to submit their invoices or their transportation costs for a tax credit. Well, I'm looking at rural areas at the present time. I know three van operators who stopped transporting people just a few months ago. They were transporting 12 and 15 people per van. I'm going to refer to daycare, for example. If you have a child and you take it to a personal daycare house, you get a tax credit on that because you get a receipt. Well, those people travelling with the other private sector people by van, for example, wouldn't be allowed to submit a request for a tax credit.

If we were to say that the equivalent of this tax credit would go toward municipalities for road improvement, that would be a little different. But at this time, again, only the urban sector would benefit from this tax credit. I understand the intent, but I always said that it should go a little further and cover rural areas.

The Acting Chair: Any further debate?

Mrs. Van Bommel: I just want to add further to that discussion as well. My point in this is that I feel the bill addresses too small a group, that too small a group will benefit. The people that I feel would most benefit from tax relief or from some kind of subsidization of the travel are not going to be included in this group. They have to have income to be able to get a tax credit; it doesn't help that group at all. Same thing in the rural areas: We don't have the ridership out there.

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We are trying very hard to encourage transit. We need to get transportation and public transit into our rural communities, and that's where my issue is: I want to make sure we get that there. We need public transit,

because we do have situations in rural communities where people are isolated because they have no vehicle. But this doesn't help them; this does not address those people.

Mr. O'Toole: Again, I appreciate the fact that it's here, so that, to some extent, is an appreciation of what the government is trying to do. But if we don't give life to this, it will not become law, as you see in section 3, until it's prescribed or given royal assent. It would still only allow it to go back to the minister for his consideration, or their consideration.

No, it's not an expansive bill in terms of its intent here, which is to support anyone who uses public transit through an incentive of whatever size or ability. It does give the minister very wide authority, absolutely, not even to proclaim the bill, but to use it as a platform for consultation.

I couldn't agree more. My riding right now is going through a huge debate on public transit. I want to put this on the record: I met with the Durham region transit authority, and this is a new, innovative, integrated transit system in Durham serving Ajax, Pickering, Whitby, Oshawa, Clarington and Scugog, Uxbridge and Brock townships. The vast majority of those areas are rural, much like your area. They have no transit; they have very limited expansion of GO services, which we put in place.

They're trying to develop a system. Now, they are going to a seamless, one ticket across the region. They're also working in co-operation with GO Transit so that now I can get students who are actually in Brock township on to a GO bus to the university. As well, people from Uxbridge can take a service bus to GO Transit to get to the university to cut down the gridlock and the parking and unnecessary pavement at the University of Ontario Institute of Technology.

Many regions—and those are either by county or township working together—can develop transit linkages, which would include sizing and footprint. Instead of having a 60-passenger bus or the vans that Mr. Lalonde spoke about, I think if they were licensed, certified, safe and passed all this stuff, I agree with you: in many cases in my riding, smaller footprint of the vehicles would be the ideal—far more efficient where there are only two or three people.

It may only start with seniors going shopping once a week, where they could get transit instead of everybody driving, or being aged or impaired in some way that they can't drive. That's how, in innovative ways, we're going to get people to make the decision to go, by providing direct supports, not just that they'll just buy more big buses. If you give them more gas money, they'll buy big buses. We don't want them on our country roads. As Mr. Lalonde said, we want different solutions. Some of it may be a taxi voucher to get them to a depot where they don't have to have a carpool parking lot, but they can meet a bus at 3 o'clock that will take them to the shopping centre, where they can go to the dentist, the hairdresser or whatever.

I think those are the solutions for these sparsely populated areas in Ontario, of which my riding is typical.

We've got the south, a lot of population; the north, none. This is just one very small micro-addition to that solution.

All this does is become a consultation point. I'm saying to you now that this was brought to my attention by a young person who works in Toronto; they're a married couple. I take the GO train when I can. They said to me, "Boy. It costs me about \$100 a week."

I never really thought of it, you know, because we get refunded for our mileage—34 cents or whatever it is per kilometre. They don't get anything. He was explaining that it's about \$70 a week for 10 GO tickets from Oshawa. When you get to surface transit, TTC, at Union Station, it's \$5 a day—\$2.50 each way. That's \$100 just for the TTC for the month. You're talking \$200 to \$300 a month, for somebody who's maybe making \$35,000 or \$40,000. Holy smokes, that's a lot of money. For the two of them, that's coming out, to me, to being \$5,000 a year, after tax, that they're paying. I get free parking here and get my gas paid for, and I'm complaining?

That's who I heard it from. That's who I give full credit for bringing it to my attention. This is a real person with a real story, and this is what I did with it. It isn't that complicated. But I am paying attention to transit, both at the Durham region as well as at the provincial level, working with the Canadian Urban Transit Association. I have recognized some of their concerns—the "administrivia" involved with the "receiptable."

I've suggested to them that the solution ultimately is like a credit card. It's called a smart card for transit. Any expense that I incur, they just zip it. I'm given a number; my transit number would be 123, whatever. They zip it in the taxi, they zip it in the bus, they zip it on GO Transit. At the end of the month, I get a bill. It's like the 407—

Interjection.

Mr. O'Toole: I won't use that as a comparative. That's a bad example.

I'm saying that could be the solution. The minister, I believe, is working on implementing a smart card for transit. I think that's a very good idea. I've heard it from all of the academics in this area of urban transit. Academics know more about it, and they think this would be a smart way of implementing this. There is technology needed to make this work, so they could give them the gas tax money to say, "Buy the computers and the scanners for your buses or trains or whatever they are, and if you use them, here are the cards, here are the numbers. Your riders would get a monthly receipt"—a receipt, at least.

I've gone on, but this is part of the record that I'm trying to develop. I'll send a transcript of this to Dr. Roschlau and others. I've committed to them that I will put as much as I can, with the limited appreciation I have for how important this debate is to them, to continue the debate, because as we all know as legislators, as people who are elected, it takes 10 years to change anything, and it starts with someone's idea. When I'm doing this, I think of Rob, my constituent, and his wife, who commute each day to Toronto.

Thank you for the time, Chair.

Mr. Lalonde: I have to say, I do like the bill, but the first step that we've done—at the present time, we are investing in having the municipality purchase additional buses to meet the demand. We are increasing the number of GO train cars. We are increasing the number of parking lot spaces and the number of shelters, but for the first three years it's going to cost the province of Ontario millions and millions of dollars—I think it's over \$1 billion. It is probably a little too early. After we have completed the gas tax program—as I said, I like the bill, but at the present time, do we know how much this would cost the taxpayers, having this tax receipt given to the people of Ontario if we were to approve this bill? Do we know the cost? Was this ever estimated?

Mr. O'Toole: I apologize, I don't have the data with me. I have some data; it's very hard to actually collect, because the evidence is a little bit more convoluted.

In all the instances where it has been implemented, the recovery—that's the increased ridership—actually offsets the loss in revenue, because in most jurisdictions what happens is it's a 15% to 30% increase in ridership. So the actual direct cost to phase it in is—I don't have the numbers with me, but you get my point. The point is, it does incent people to get out of their car.

Mr. Lalonde: This is the point, Mr. Chair: If we do give out those tax receipts, it would mean an increase in ridership. Can the municipality afford to put more buses on the road? At the present time, I think the way we've started is to give gas tax to the municipalities so they can increase the number of transportation units that they have. Then the next step could be this one, as a tax receipt.

The Acting Chair: Any further questions?

Mr. O'Toole: I'd just make one last comment. It looks like I'm going to have to win again in 2007 to keep this on the table. Thank you.

The Acting Chair: We're voting on the amendment. All in favour of the amendment?

Mr. O'Toole: Recorded vote.

Ayes

O'Toole.

Nays

Craitor, Dhillon, Lalonde, Van Bommel.

The Acting Chair: The motion is defeated.

Now we vote on section 2. All in favour of section 2?

Mr. O'Toole: As amended?

The Acting Chair: It wasn't amended.

All opposed? Mr. O'Toole, you don't want to support section 2?

Mr. O'Toole: No recorded vote, and I lost, so that's for the record. Let the record speak for itself.

The Acting Chair: Section 2 is defeated.

The Clerk of the Committee: Did section 1 carry?

The Acting Chair: Section 1 carried.

All in favour of section 3? All opposed? Defeated.

Section 4: All in favour? All opposed? Defeated.

Mr. Wood: It really creates some problems to carry certain sections but defeat section 2, because there's a reference in section 1 of the bill to section 8.4.5, which is set out in section 2. So it's really all whole. You either have to carry—

Mr. O'Toole: But the point, Legal Counsel, in my view is, shall the bill carry? So that becomes null and void.

The Clerk of the Committee: Yes. We have to ask that question first, and then I'll advise—

Mr. O'Toole: If there are any votes on the bill, the bill won't even be reported to the House.

The Acting Chair: Let's carry on?

The Clerk of the Committee: Yes.

The Acting Chair: So section 3 was defeated.

Section 4: All in favour of section 4? All opposed? Section 4 is defeated.

The preamble: All in favour? All opposed?

Mr. O'Toole: It looks like it's a gang vote.

The Acting Chair: Shall the title of the bill carry? All in favour? Opposed?

Interjection.

The Acting Chair: It's not amended.

Since portions of the bill were defeated, it's not in proper form. Shall I then report the bill as being not reported?

Interjection.

The Clerk of the Committee: Because the bill is not in proper form, this bill cannot go forward, so it has essentially been defeated. Now we report that the bill be not reported. We're saying that we can't deal with this bill because it's not in proper form. We've defeated it, so we'll report that it be not reported. That's just the terminology to get it back to the House.

The Acting Chair: So we're voting that it's not going to be reported.

Mr. Craitor: Does this mean you'll stand up in the House and say this?

The Clerk of the Committee: The Chair will. She'll have a script that will say that the bill—

Interjection.

The Clerk of the Committee: OK.

The Acting Chair: All in favour of the bill not being reported? Opposed? The bill shall not be reported.

That concludes this meeting. Meeting adjourned. Thank you.

The committee adjourned at 1124.

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Wednesday 23 November 2005

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Mercredi 23 novembre 2005

**Standing committee on
regulations and private bills**

**Comité permanent des
règlements et des projets
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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLSCOMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ

Wednesday 23 November 2005

Mercredi 23 novembre 2005

*The committee met at 1004 in committee room 1.*HIGHWAY TRAFFIC AMENDMENT ACT
(LICENCE SUSPENSIONS), 2005LOI DE 2005 MODIFIANT
LE CODE DE LA ROUTE
(SUSPENSIONS DE PERMIS)

Consideration of Bill 209, An Act to amend the Highway Traffic Act with respect to the suspension of drivers' licences / Projet de loi 209, Loi modifiant le Code de la route en ce qui concerne les suspensions de permis de conduire.

The Vice-Chair (Mr. Tony C. Wong): Ladies and gentlemen, this is the standing committee on regulations and private bills. This morning, we have one item and that is Bill 209, An Act to amend the Highway Traffic Act with respect to the suspension of drivers' licences. The sponsor is MPP David Zimmer. Do we have anyone here to make a deputation to committee? No?

I would like to call upon MPP David Zimmer.

Mr. David Zimmer (Willowdale): Can we just go off the record for a second?

The Clerk of the Committee (Ms. Tonia Grannum): Do you want to recess?

Mr. Zimmer: Just for two seconds.

The Vice-Chair: We'll recess for one minute.

The committee recessed from 1005 to 1006.

The Vice-Chair: The committee is back in session. MPP David Zimmer, would you like to make a few comments?

Mr. Zimmer: Thank you, Mr. Chair. It's my pleasure and honour to be able to bring forward Bill 209 for clause-by-clause review by this committee.

The bill is aimed at boat safety and saving lives. The bill is about giving law enforcement the tools to address the problem of drinking and boat operation. It's about ensuring that the millions of tourists and Ontario residents who enjoy boating and water recreational activities can go out on our waterways without having to fear for their lives or safety because of drinking and boating.

We suspend drivers' licences for offences such as non-payment of child support and the operation of snowmobiles. There is no reason why we shouldn't do the same for boating offences involving alcohol. We have a

responsibility as legislators for boat safety here in Ontario.

Through the hard work of organizations like Mothers Against Drunk Driving, law enforcement agencies, boat operators' associations and cottage associations, this message has been made clear: If you drink, don't drive.

The message should also be clear: If you boat, don't drink. As well, with respect to the operation of motor vehicles and alcohol, through various strategic campaigns over the last number of years—advertisements, RIDE programs, public awareness programs—the culture of Ontario has been changed with respect to impaired driving and the operation of motor vehicles.

But the same hasn't been true of the operation of motorboats and alcohol. This is an area which has long been ignored. Driving an automobile or a snowmobile while impaired has been deemed unacceptable behaviour, but the same message has not, apparently, been carried through with the boating community.

Every boating season, there are numerous accidents involving alcohol and boating. Lives are lost; people are injured.

We have to get the message out that alcohol and boating is no less dangerous than operating a car under the influence of alcohol. Most boaters don't seem to understand the effect of the sun, the wind, the rain, the feeling of exhilaration when you're on the open water in a boat. The attitude that it's acceptable to operate a motor vessel while impaired seems to be prevalent among the boating community.

I want to thank the committee for moving this legislation forward so quickly. I look forward to a quick review process so that I can bring the legislation up for debate in the Legislature. I can tell you that my sense from speaking to my colleagues in the Legislature, from all parties, is that the bill enjoys support in all three caucuses and enjoys support with all the various stakeholder communities in Ontario. Thank you, Mr. Chair.

The Vice-Chair: Thank you, Mr. Zimmer. Questions and comments from members of committee?

Mr. Kim Craiton (Niagara Falls): I just want to read in for the record, since our last meeting on this matter I had the opportunity—in fact I made it a point—of visiting our local city councils, two of which I represent. With our riding, we are truly surrounded by water, and boaters are very common. I just want to share with my

colleagues that, without any hesitation, both the council of Niagara-on-the-Lake and the city council of Niagara Falls totally endorsed the bill. Appropriate letters have been sent to Queen's Park to let them know. So I am extremely pleased.

As I said, in our riding boats are everywhere. I will also say for the record that since the bill came out, I've had a number of boaters who have contacted me and expressed their extreme pleasure with what's going forward. They made me aware that they have seen some of their friends loading drinks into their boats that are not appropriate, so they're really pleased to see that we're going forward with this. I just wanted to share that and put it into the record.

The Vice-Chair: Any further comments or questions?

Mr. Gerry Martiniuk (Cambridge): I would just like to take this opportunity to thank and congratulate Mr. Zimmer for bringing forth a long-overdue provision.

Mr. Khalil Ramal (London-Fanshawe): Just for the record, I want to commend my colleague, the member from Willowdale, Mr. Zimmer, for his bill. I also get a lot of phone calls in my constituency office in London commending the member for bringing forward this bill, because it's a very important bill to protect many innocent lives. When people go on a trip, they want to have a fun day, and then for some reason the fun day turns into tragedy. With this bill, I think we create some kind of protective measure to protect people who want to enjoy a day of boating.

The Vice-Chair: If there are no further comments or questions, we're going to start with clause-by-clause consideration. We'll start with section 1. Are there any comments, questions or amendments to section 1 of the bill? If not, all in favour of section 1? Opposed, if any? That is carried.

Section 2, any comments, questions or amendments? All in favour of section 2? Opposed, if any? That is carried.

Section 3, any comments, questions or amendments?

Mr. Zimmer: I have an amendment on subsection 3(2) of the bill. I move that the definition of "vessel" in subsection 48(13) of the act, as set out in subsection 3(2) of the bill, be struck out and the following substituted:

"'vessel' means a vessel within the meaning of section 214 of the Criminal Code (Canada). ('bateau')"

The Vice-Chair: Any questions or comments on the amendment? If not, then all in favour of section 3, as amended?

Oh, sorry. We'll start with the amendment first. All in favour of the amendment? Opposed, if any? That is carried.

All in favour of section 3, as amended? Opposed, if any? That is carried.

Section 4, any questions, comments or amendments?

Mr. Zimmer: I propose an amendment. I move that the definition of "vessel" in subsection 48.3(16) of the act, as set out in subsection 4(2) of the bill, be struck out and the following substituted:

"'vessel' means a vessel within the meaning of section 214 of the Criminal Code (Canada). ('bateau')"

The Vice-Chair: Questions and comments on the amendment? If not, all in favour of the amendment? Opposed, if any? That is carried.

All in favour of section 4, as amended? Opposed, if any? That is carried.

Section 5, any questions, comments or amendments? All in favour? Opposed, if any? That is carried.

Section 6, comments, questions or amendments? All in favour? Opposed, if any? That is carried.

Section 7.

Mr. Zimmer: I propose an amendment. I move that section 7 of the bill be struck out and the following substituted:

"Short title

"7. The short title of this act is the Highway Traffic Amendment Act (Drinking and Boating Offences), 2005."

The Vice-Chair: Comments and questions on the amendment? If not, all in favour of the amendment? Opposed, if any? That is carried.

All in favour of section 7, as amended? Opposed, if any? That is carried.

Shall the title of the bill carry? All in favour? Opposed, if any? That is carried.

Shall Bill 209, as amended, carry? All in favour? Opposed? That is carried.

Shall I report the bill, as amended, to the House? All in favour? Opposed, if any? That is carried.

Meeting adjourned.

The committee adjourned at 1015.

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Mrs. Maria Van Bommel (Lambton–Kent–Middlesex L)

Mr. Tony C. Wong (Markham L)

Substitutions / Membres remplaçants

Mr. David Zimmer (Willowdale L)

Clerk / Greffière

Ms. Tonia Grannum

Staff / Personnel

Mr. Albert Nigro, legislative counsel

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Wednesday 30 November 2005

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Mercredi 30 novembre 2005

Standing committee on
regulations and private bills

Comité permanent des
règlements et des projets
de loi d'intérêt privé

Chair: Vacant
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLS

Wednesday 30 November 2005

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ

Mercredi 30 novembre 2005

*The committee met at 1009 in committee room 1.*TRANSPARENCY IN PUBLIC
MATTERS ACT, 2005LOI DE 2005 SUR LA TRANSPARENCE
DES QUESTIONS D'INTÉRÊT PUBLIC

Consideration of Bill 123, An Act to require that meetings of provincial and municipal boards, commissions and other public bodies be open to the public / Projet de loi 123, Loi exigeant que les réunions des commissions et conseils provinciaux et municipaux et d'autres organismes publics soient ouvertes au public.

The Vice-Chair (Mr. Tony C. Wong): Ladies and gentlemen, this is the standing committee on regulations and private bills. We have one item on the agenda this morning, and that is Bill 123. I will now invite MPP Caroline Di Cocco to speak.

Ms. Caroline Di Cocco (Sarnia-Lambton): I am pleased to be here today. I guess I need to know the procedure here. I will just move the motions that we're putting forward, or is this—

The Vice-Chair: You also get to speak to your motion.

Ms. Di Cocco: Thank you. Bill 123 is here to go through clause by clause, and before us we have the amendments that I spoke to when we were debating the bill. The very first amendment deals with the public bodies that are prescribed and designated by the regulations made under this act. Those public bodies are listed as in the schedule, part II, and I think it's on 18. The three bodies are going to be the school boards, hospital boards and municipalities basically.

The Vice-Chair: You're just making an opening statement, right?

The Clerk of the Committee (Ms. Tonia Grannum): Once you finish your opening statement, we move to section 1, and if there are any amendments, then we proceed.

Ms. Di Cocco: Thank you. After much discussion, and again feedback from the process that we had, which was through the number of deputants who came before this committee, I arrived at the conclusion, of course, that there were some changes that had to be made.

I believe that the amendments certainly improve the bill. The bill itself, as you know, has received a great deal

of—how do I say it?—public profile, because it is long overdue in the province. It's an attempt to raise the standard of transparency for these public bodies.

I want to thank all of the people who continue to support this bill, and the members around this table as well who supported it many years ago and who have continued to add their voices to the intent of the bill. I'm hoping, again, that by simplifying the schedule, it will certainly begin the process of raising the bar for transparency in how meetings are conducted and how decision-making is arrived at.

The Vice-Chair: Any comments and questions from committee members at this time?

Mr. Bill Murdoch (Bruce-Grey-Owen Sound): As you know, we support the intent of the bill, but I personally think we shouldn't have the bill, because it could be looked after in other—there should have been amendments maybe to other bills, especially in the municipalities. They have an act that looks after them, and that's where it should have been dealt with.

The overall intent is fine, but I think the way we're doing it is just wrong. That's me personally; I'm not speaking for anybody else. I may go along with your amendments, but in the end, I just don't think the bill should be back for third reading, that's all.

The Vice-Chair: I take that as a question to Ms. Di Cocco?

Mr. Murdoch: No, it's not a question. I'm just stating what I think about the bill. I'm just saying I don't think it should come back for third reading.

The Vice-Chair: Do you want to respond, Ms. Di Cocco?

Ms. Di Cocco: I've heard the argument, and I know there has been lots of comment about looking at it in the Municipal Act and the hospital act and the Education Act.

I think the downside to that is that—the reason this bill is stand-alone is because it focuses on the whole notion of transparency. It's much easier to look at this bill in isolation and how it impacts all of the other ministries, but also, as we need to make changes, as we evolve and continue to raise the standard for transparency, it's much easier to add it to a stand-alone bill than to break open other acts.

Mr. Murdoch: I have to disagree on that. I think you could have easily made an amendment to whatever act

you wanted to do it to. I understand in government it's hard to open an act like that, but I just don't think this is a private member's bill that should come forward for third reading. As I say, I think the people who were doing education and health and municipalities have their own acts, and that's where it should have been. That's fine. All of this could have been incorporated into their acts and we could have debated it that way. I just don't think this is the way to go. That's fine—whatever. I just wanted to put that on the record.

The Vice-Chair: Thank you, Mr. Murdoch. Mr. Craitor?

Mr. Kim Craitor (Niagara Falls): First of all, congratulations to my colleague Carolyn. I'm certainly going to support the bill exactly the way it is, but in addition to what's in the bill, I've added some other boards and agencies that I think should be covered. You'll see that further on in my amendments.

I am one of those who believes—I think we all do—in openness and transparency. I've had some situations that have motivated me to really get on to this bill, and I'll share those with the committee. But I think it's a great start. Whatever format the bill comes out in in the end, I think the important thing is that it gets passed and that we open the door to making all these boards and agencies that deal with taxpayers' dollars much more open, much more accountable, and that the public has access to it, including the local member of Parliament, who I found does not have access to some boards. I was denied entry into them because of the way they're structured. I'll deal with that further as we go on.

The Vice-Chair: Thank you. Ms. Martel?

Ms. Shelley Martel (Nickel Belt): I want to make this comment and also ask a question. I supported this bill when it appeared in other forms in other committees in the past and have indicated my support and our support for it at this time. At the time, though, there weren't reviews going on of other bodies under other pieces of legislation. At this point, I don't know how fulsome it is, but we are given to understand that there is a review of the Municipal Act underway. My question, then, to the member is, if that is the case, what discussions have you had with MMAH about that review, and if and when changes come forward, is there going to be an opportunity or potential for what is covered under this bill to actually be incorporated into that legislation so municipalities still operate under one set of legislation? What's your understanding? I'm prepared to pass it now because I don't know how long this review of the Municipal Act is going to take and whether or not it's going to see the light of day. If it might see the light of day, what is the minister's or ministry's intention to deal with whatever might be passed through this bill and incorporated in a single piece of legislation?

Ms. Di Cocco: I have had some initial discussions with the ministry. My understanding is that changes to the Municipal Act will be discussed. You're right about the length of time. I'm not sure what the timeline is. The other concern I have is that I know that the municipi-

palities, when they are looking to add their input, are looking for more leeway—how do I say it?—more flexibility for their in camera discussions. I don't see the intent to go the other way when it comes to representation like AMO and others, because they're saying they need more criteria under which they can go in camera. That's just my concern. I have no issue with that if I'm assured that the intent of the bill, the backbone of the bill, is transported into the Municipal Act. There's also the other issue that the municipalities don't feel that they need any oversight, that they can do their own self-policing on it. I think that kind of takes away the spirit or the principles within the bill.

Ms. Martel: I understand the municipalities' perspective. I've seen that in various resolutions. I guess I'm more interested in the perspective of the ministry in terms of what their intentions would be if this bill passes. If it comes back for third reading, it's only going to pass if the government supports it. So if the government supports it, the government then has, I wouldn't say a dilemma, but an issue to deal with, which is that it has a review of the Municipal Act that is apparently underway and it would have a separate, stand-alone piece of legislation that also has an impact on municipalities.

1020

Is it the intention, then, of the minister and the ministry to take what has been passed and incorporate it in some way, shape or form in their review and then in a revised Municipal Act? Otherwise, we're going to get stuck with two pieces of legislation and the municipalities have some point in terms of saying, "We should really be dealing with one act versus two." What I'm trying to get at is, is there going to be an opportunity or a willingness on the part of the ministry to make sure that municipalities are operating under one set of rules, under one set of legislation, even if it is the rules present here that they may not like?

The Vice-Chair: I'll take that as a comment, because I don't know if Ms. Di Cocco is able to answer that question on behalf of the minister or the ministry.

Ms. Di Cocco: That's what I was going to say. I don't know. What I can say is that I've had discussions, and I'll certainly continue the discussions to see that it gets—if there is a way to streamline it in that context, I'm sure they may find a way, but I can't speak for them and I really don't know what their intentions are.

The Vice-Chair: Any further questions or comments from members? If not, I will proceed with a section-by-section treatment for comments, questions or amendments.

I'll start with section 1: Any comments, questions or amendments on section 1? Seeing none, shall section 1 carry? All in favour? Opposed, if any? That is carried.

Section 2 of the bill: Ms. Di Cocco.

Ms. Di Cocco: Do we do them all in groups, or do we do each—

The Vice-Chair: We'll do it section by section.

Ms. Di Cocco: OK.

Mr. Murdoch: What page are you on?

Ms. Di Cocco: It's the motions that are in front of you; page 1.

I move that paragraphs 1 and 2 of subsection 2(1) of the bill be struck out and the following substituted:

"1. Public bodies that are prescribed as designated by the regulations made under this act.

"2. Public bodies that belong to a type that is designated in schedule 1 to this act or to a type that is prescribed as designated by the regulations made under the act."

The Vice-Chair: Any comments or questions on this amendment?

Mr. Craitor: Just for clarification, what you've eliminated is part II—am I correct?—under the schedule.

Ms. Di Cocco: The schedule—

The Vice-Chair: Subsection 2(1).

Mr. Craitor: If we go to the amendment, it's got 1 and 2, and number 2 says, "Public bodies that belong to a type that is designated in schedule 1." If you go to the back page, you've got schedule 1, but the bill, in its initial stages, referred to parts I and II. We eliminated part II. Is that what we've done? Is that what's proposed?

The Vice-Chair: That is the motion: to do that.

Mr. Craitor: To eliminate the last page, which lists all these—

The Vice-Chair: I'm going to invite our legal counsel to speak to that.

Ms. Catherine Macnaughton: I believe there's a later motion that Ms. Di Cocco will be moving that will sort out the schedules for you at that point.

Ms. Di Cocco: It's on page 17 of our amendments, actually.

Mr. Craitor: I'll look at that first before I proceed on this, then.

The Vice-Chair: I'm going to stand this one down until we deal with the subsequent amendment, because standing alone, it does seem to mean what Mr. Craitor suggested.

The Clerk of the Committee: Maybe we should stand down these motions and deal with the motions to the schedule first, if these all relate, if that makes more sense.

Mr. Craitor: Thank you, Chair. That was my request, because the way we're dealing with it, we're eliminating II. Anyway, you know what I'm asking for.

The Vice-Chair: That's fine. So we will deal with the schedules first, starting with page 15 of the package. Do all members have that, page 15 of the amendment package?

Mr. Craitor: I'm pleased to put forward the following motion:

I move that part I of schedule 1 to the bill be amended by adding the following item:

"4. Niagara Parks Commission; section 3 of the Niagara Public Parks Act."

The Vice-Chair: We will take a five-minute recess.

The committee recessed from 1027 to 1032.

The Vice-Chair: We are back in session and we will continue to deal with Mr. Craitor's motion. Have you finished with your motion?

Mr. Craitor: Yes, I've introduced the motion.

The Vice-Chair: Mrs. Van Bommel.

Mrs. Maria Van Bommel (Lambton-Kent-Middlesex): I'm going to have to say that I'm opposed to this amendment. The very purpose of this bill is to have the opportunity for the public to be involved in decision-making. We had extensive public consultations with the groups that were mentioned in the original act, in the proposed bill. The Niagara Parks Commission was not mentioned originally; therefore they had no opportunity to participate in the public hearings this committee had. We would be going counter to the intent of this bill if we did that. I feel it is the same as having a closed meeting, when you make a decision and the group that is impacted by it hasn't had an opportunity to speak to it. So I will be opposed.

The Vice-Chair: Further comments or questions?

Mr. Craitor: Yes, just to share with the committee that the Niagara Parks Commission is at arm's length from the government. It was created many years ago. It was a great decision by the government of the day to protect the parkland along the Niagara River from Niagara-on-the-Lake right through to Fort Erie. Had they not done so, you would see hotels and every other thing running along the river.

Shortly after I was elected, the parks commission made some decisions about the way in which they were going to maintain the parkway, not cut the grass, go to a different style of appearance for the parkway and a couple of other decisions. There was quite a public uproar over this. My office was inundated with many people who came in to see me, and I made the decision that I would go and make a presentation to the parks commission. I thought they should hear what I heard, as the local provincial member of Parliament, about their concerns. Much to my shock and surprise, I found out that I was not entitled to attend their meetings. They were closed-door meetings, including to a member of provincial Parliament. I still went. I remember it. I showed up, and basically the answer was, "No, you're not entitled to be here." So my response was, "Thank you. I'll go see the media," which I hear quite often from the public. In the end, they consented that I could sit at the meeting only for that one portion and share my views, which I did. That opened a whole tidal wave in the community, because the parks commission and the Niagara parks are considered a special entity to the community, and they felt they had some say in it.

This bill by my colleague Caroline Di Cocco was coming forward, and I made the decision that I would like to see the parks commission included in it. I will share that back in that community it's well known that I put this forward. The parks commission is aware of it and probably aren't happy with me, but that's fine. The public is aware of it. I made a presentation to city council, and they supported the bill, probably the only city council in Ontario, so I congratulate the Niagara Falls city council. They have supported the addition not only of themselves as a municipality but of the parks commission, and you'll see a couple of other boards that

I am putting forward later on in some amendments that I want to see included.

So that's the history of this closed door—a closed door to the member of provincial Parliament, as well. This was my avenue of trying to make that board much more open and accountable to the public.

Ms. Martel: I appreciate the comments by Mrs. Van Bommel, and I'm not here today to side-swipe the committee by any stretch of the imagination. I sat on the original bill in public accounts and have seen some different iterations of it, and I've been supportive all the way through.

My concern, and I'll express it again, as I did at the public hearings, is that I think we should have moved with a broader bill. I don't think it's too much to ask public bodies that get taxpayers' money to hold open public meetings. That's not too much to ask, and I don't care what commission it is. I feel there are sufficient and significant protections in the bill to deal with personnel matters, to deal with issues that really should be behind closed doors, but my goodness, in 2005, if we don't expect that public bodies that get public funds should at least have some open meetings, that there should be adequate public notice of that and that information should be shared, then we are on the wrong track.

I expressed at the public hearings, and I'll do it again today, that I regret that we're not dealing with the original bill, which was much broader in scope and would have captured many more public institutions which in some cases get very significant amounts of public money. There should be some public input as to how that is spent and the decision-making processes around those items. But here we are dealing with a much smaller bill than I would have liked and than I was originally supportive of.

So I'm going to support Mr. Craitor, because from the start, when this bill was first introduced, I thought it should be broad and should encompass all of those public bodies. The story that you relayed to us just convinces me even more why the commission should be part of this. The fact that an MPP can't even attend a meeting is just atrocious as a policy of a board that is essentially funded by the province of Ontario and by the taxpayers of Ontario. So I'll support yours and also be moving an amendment myself that would have been part and parcel of the broader bill had we been dealing with that, but one that I felt should be moved anyway today.

The Acting Chair (Mr. Dave Levac): Any further comments? There being none, I believe we're at a vote on the amendment moved by Mr. Craitor.

Shall the motion carry? All in favour? Opposed?

As is the tradition in a tie vote, I will be voting, against. So it's defeated.

Moving on to the next amendment.

1040

Mr. Craitor: This will be amendment 16, and I am pleased to move that part II of schedule 1 to the bill be amended by adding the following items:

"12. The board of a corporation that is a local distribution company for electricity if one or more municipalities

owns, directly or indirectly, voting securities carrying more than 50% of the voting rights attached to all voting securities of the corporation."

For example, Niagara Falls Hydro. As well:

"13. The board of directors of a community care access corporation as defined in section 2 of the Community Care Access Corporations Act, 2001.

"14. The Ontario Lottery and Gaming Corporation established under section 2 of the Ontario Lottery and Gaming Corporation Act, 1999."

The Acting Chair: Comments?

Mr. Craitor: In the case of the first addition, hydros, for example, in Niagara Falls I was on city council, and I was pleased with the fact that we made the decision to keep our own utility, so we kept Niagara Falls Hydro. It was a good decision.

But what I did find out was that it operates on its own. It's independent, and even as members of council, we had difficulty getting in, getting information, and the public felt the same way. So the amendment is pretty straightforward. It would incorporate them under this bill and would make their meetings open to the public, with three exceptions: personnel matters, property matters and legal matters. The public would have access to attend their board meetings, sit and listen, and so would the media. That's the purpose of this one.

In the case of the community care access corporations, I had a situation as a new member where our local CCAC—I think, Chair, you've been through this—made a decision not to award the contract to a well-known service delivery for home care, called the VON, and chose someone else. As the provincial member, I questioned that and wanted to look at some of the documents and understand how this took place, because of the public outcry; they were extremely upset. Much to my surprise, I found out that I was not entitled to do that—and much to the public's surprise. They had assumed, probably like myself, that that was something a provincial member of Parliament would be able to do. That's the reason I want to include the CCACs.

The final one is the Ontario Lottery and Gaming Corp. Again, to give you some brief history, our community was fortunate enough back in 1996 to be chosen to have a casino, and so in 1996 a temporary casino was opened, called Casino Niagara. The government of the day decided they would go forward with a permanent site, and so they put out RFPs and they chose, out of all the proposals, one group called the Falls Management Group to build the new casino.

As a member of city council, I was there when the government of the day made that decision. I was there when they had the press conference, and there was a list of things that the community were told were going to come with this casino: a 7,200-square-foot convention facility, a 50,000-square-foot family entertainment centre, an eight-plex movie theatre, a family-oriented circus act, the Niagara food and wine experience. Those were all going to be on-site as part of the casino development. Off-site, they were going to build a river ride

as part of the Marineland complex, a year-round amphitheatre to seat 12,000, an indoor and outdoor concert facility and a people mover system.

Those were things that were promised by the government of the day when they chose the Falls Management Group. What happened is they didn't happen, and now I'm the provincial member of Parliament, and the public comes forward and is questioning, saying to go forward with this, find out what happened.

What I have learned is that many of those deals, unfortunately, were signed and they're not public documents. It's hard for the public back there to perceive that they're not, and so they have asked me to come forward and have the Ontario Lottery and Gaming Corp., which is the arm's-length body that deals with casinos and was the body that dealt with choosing this group to build a new permanent casino and all these promised attractions that were going to go with it.

So again, it was a commitment I made that I would go forward and include the OLGC as part of this bill, which would then entitle the public to have the opportunity to hear what's being said, to attend meetings if they want to, that it's an open and transparent process, particularly when you look at our community, because it had such a major impact—well, I guess they didn't, because we didn't get what we were promised.

I have continually read in the House—many of you may have heard me—petitions from a group called Fair Share. I guess we can have props at the committee. This is their pamphlet. It outlines all the promises that were made by the Falls Management Group, chosen by the government of the day. So the petitions I've read in faithfully—the response I got back is a document that's not open to the public. That's the way it was signed through the government of the day.

So I've asked for the Ontario Lottery and Gaming Corp. to be included, as I have with the other three. I'm just pleased to share the rationale with the committee as to why I'm bringing it forward. Again, the city council of Niagara Falls has supported all of these as being included in this bill.

The Acting Chair: Thank you, Mr. Craitor. Ms. Martel?

Ms. Martel: I appreciate the background information that was provided by Mr. Craitor. I would be supporting this amendment as well.

I want to focus just specifically for a minute, if I might, on community care access centres. They remain very closed shops. That was as a consequence of the passage of Bill 130 by the former government, which really took them under essentially government control and did away with much of the public sharing of information, public meetings, public election of members of the board etc. The minister has announced through the LHIN legislation that at some point in time there will be a reversion back to the communities so that, once again, at some time, community care access centre boards will be elected and information will be shared in a much freer manner with the public. That is not in place yet, and it

may be some time before that is, frankly. I wouldn't be surprised if it isn't another one or two years before we actually see that change that should be happening now. So we have a situation where CCACs are not essentially open to the public.

The second problem you have is that CCACs also are not subject to the freedom of information act. So you can't get information regarding some of those RFPs under the competitive bidding process that have been so detrimental to your community, Mr. Craitor, and to mine, where we lost the VON after 80 years in the community after they lost their contract. So that whole operation where there is very significant public money is a very closed shop and needs to be much more open again. It needs to be open with respect to public meetings, elections, but also subject to freedom of information so people can actually get information regarding decisions that are made that have very serious consequences for their community, especially for patients who get care from particular providers.

So I am supportive of this amendment, and I'd just say again, in 2005, no institution that receives overwhelming public funding, taxpayers' dollars, to operate in the province should be surprised that they would be expected to at least have open public meetings and to share information about decisions, particularly decisions with respect to the spending of public money in a public way. So while I appreciate some of these folks were not named before and wouldn't have had the opportunity to come to the committee, I think that we should be well beyond the point where these bodies should be opposed to this. This should be a regular, routine matter for any body that's receiving public funding in the province.

The Acting Chair: Thank you, Ms. Martel. Mrs. Van Bommel?

Mrs. Van Bommel: Again, I'm going to have to speak against the motion. I'm not arguing with Ms. Martel's comment that this bill should have had a broader scope, but the reality is it does deal with those specific groups that are mentioned in the bill. I think that, as a committee, we need to lead the way when we talk about transparency and make sure that everyone has an opportunity. The organizations that are listed in this particular motion did not have an opportunity to participate in the public discussion and in the hearings and state their case to us. Therefore, in terms of leading the way in transparency, I think I have to speak against this motion.

1050

The Acting Chair: I think it would be appropriate at this time to ask legal counsel—we are dealing with some broad legal implications—if there are any comments to be made for clarity, before the vote, on the legal implications these amendments could create.

Ms. Macnaughton: I'm not aware of any.

The Acting Chair: You're not aware of any. Thank you. Just to make sure.

We have room for any other speakers. There being none, we'll call the question on motion 16 from Mr. Craitor. All in favour? Opposed? Seeing a tie, I shall cast my vote against. Defeated, 4 to 3.

Page 17: Ms. Di Cocco.

Ms. Di Cocco: I move that parts I and II of schedule 1 to the bill be struck out and the following substituted:

"The following are types of designated public bodies for the purposes of this act:

"1. The board of directors, governors, trustees, commission or other governing body or authority of a hospital to which the Public Hospitals Act applies, but not an advisory committee that is established by a board under the Public Hospitals Act or its regulations, such as the fiscal advisory committee, medical advisory committee or nursing advisory committee.

"2. A council of a municipality.

"3. A district school board or school authority as defined in section 1 of the Education Act."

The Acting Chair: We'll look for debate. Ms. Di Cocco, comments?

Ms. Di Cocco: I'd like to get it to a vote. There are other amendments to go through. I think it kind of speaks for itself. In drafting this, I did it for two reasons. One is to just simplify it so it is the first step and, secondly, because when it comes to advisory committees of hospitals, it seems that they're not the ones who actually make the decision. It's the decision-making authority.

The Acting Chair: Any further questions, clarification or comment? There being none, we'll call the question on 17. All in favour? Opposed? Carried.

Page 17a: Mr. Murdoch.

Mr. Murdoch: I have a motion here, but it was sent to me by Mrs. Witmer's office, our health critic. I guess it was given to her by the OHA.

I move that the motion by Caroline Di Cocco to amend schedule 1 to the bill be amended by striking out item number 1 of the schedule and substituting the following:

"1. The board of directors, governors, trustees, commission or other governing body or authority of a hospital to which the Public Hospitals Act applies, but not an advisory committee or body that is established by the board."

It leaves out some of the stuff and, quite honestly, I don't know why. The OHA asked us to put this amendment, and I put the amendment on the record.

The Acting Chair: For clarification purposes, it does change what Ms. Di Cocco has said, that we've just approved. So that you're aware, it does change the wording by "such as the fiscal advisory committee, medical advisory committee or nursing advisory committee." I think that's different.

Mr. Murdoch: That's all I can see that's been changed.

The Acting Chair: We'll just get clarity. And the other difference is "or body." I'll seek clarity for us, to make sure that we know what the differences are. Forgive me.

It appears that the words "or body" seem to be the difference. So we'll allow any debate on the difference.

Mrs. Van Bommel: I'm more concerned that by using the word "body" we give opportunity for someone to

slide something in that we don't want to have. I think Caroline Di Cocco's prior motion is more specific and more to the point and certainly gives the boards and the governance levels a very clear indication of what the intent is.

The Acting Chair: Anyone else?

Mr. Murdoch: Where is that body you're talking about?

The Acting Chair: Your wording says, at the very last sentence, "but not an advisory committee" and then the difference is "or body," as opposed to the previous one, which does not make mention of the creation of an extra body. There's an extra body in there somewhere.

Interjections.

The Acting Chair: Jocularly: it's good for you.

Any other comments about that? OK. We would ask for Mr. Murdoch's motion 17a. All in favour? Opposed? Defeated.

Mr. Craitor: We lost a body.

The Acting Chair: We'll see if we can find that body somewhere else in the next amendments. We're on page 18: Ms. Martel.

Ms. Martel: I move that schedule 1 to the bill be amended by adding the following part:

"Part II

"2. The following types of designated public bodies for the purposes of this act:

"1. A corporation that owns or operates a nursing home licensed under the Nursing Homes Act.

"2. A corporation that owns an approved charitable home for the aged under the Charitable Institutions Act.

"3. A corporation that owns or operates a home under the Homes for the Aged and Rest Homes Act.

The Acting Chair: Speak to it, please.

Ms. Martel: Thank you very much, Chair. I mentioned earlier that there had been other versions of this bill, and this amendment goes back to an earlier version when the schedules were more comprehensive. So that's why there was a Part III. As the schedule on 13 shows, there would have been parts I and II, and then this would have been a new addition at the time with respect to the previous bills, a Part III.

Again, I wanted to move this because those bodies in the long-term-care sector—charitable homes or nursing homes or municipal homes for the aged—received significant amounts of public dollars. It is true that they do receive fees from their own residents as copayments, but they also receive very significant public dollars and there should at least be open meetings with respect to decision-making about how those public dollars are spent in those homes. So I have put the amendment in again because it did follow from a previous bill when we were looking at a much more comprehensive schedule. I understand from Ms. Di Cocco that this was given to the Ministry of Health and that they were supportive, so I certainly did not want to withdraw it, with that understanding.

I appreciate where the government is going to come from on this, but I just say again, I really do think that these folks were aware of this possibility from before,

because there was much consultation on the bill before and a sharing of the amendments with respect to a previous bill. So I don't think this would have taken many people by surprise, and I really do think it's high time that we have some minimal expectations from public bodies, including open meetings with respect to how public money is spent.

1100

The Acting Chair: Mrs. Van Bommel, I have you on the list.

Mrs. Van Bommel: Again, I absolutely agree with the intent of the motion. But beyond the principle of the fact that we are talking about openness and transparency and the fact that it wasn't in the bill originally, I'm still going to have to speak against this motion simply because I feel that we want to be, as a committee, very open and not be seen to be bringing things in through the back door.

The Acting Chair: Any further discussion?

Mr. Craitor: I think it's an excellent amendment, one that I had overlooked. I can share with you some stories about where I've gone in and asked for information and haven't been successful, so we need to hear it again. I think it's appropriate, so I will support it.

The Acting Chair: We have on page 18 the motion before us by Ms. Martel. All in favour? Opposed? I will vote against the amendment; defeated 4 to 3. Thank you.

We now have to go back to section 2. Ms. Di Cocco has moved a motion, so we can move to discussion.

Ms. Di Cocco: It's just the wording. There's no need for further discussion.

The Acting Chair: Any other discussion? There being none, we'll put the vote. In favour? Opposed? Carried.

I believe we can carry schedule 1, as amended, and then we'll take any comments. We did all the motions and we can now do it by section.

Shall schedule 1, as amended, carry? All in favour? Opposed? Carried.

We're now on page 2.

Ms. Martel: I move that subsection 2(1) of the bill be amended by adding the following paragraph:

"3. Bodies that belong to a type that is designated in part II of schedule 1 to this act, but only with respect to meetings of the board of directors or officers of such bodies at which deliberation or decision-making occurs in relation to the spending of public money."

This is referenced back to the schedule that I moved that was defeated, a schedule that would have made nursing homes, charitable homes and municipal homes come under this particular piece of legislation.

The Acting Chair: Ms. Martel, I'm sorry I have to interrupt. My understanding is, because we did defeat that amendment, that this is out of order. I apologize for raising your hopes a little.

Ms. Martel: I was trying. Thanks, Chair.

The Acting Chair: We're going to need to vote on section 2, as amended. All in favour? Opposed? Carried.

The Acting Chair: Mr. Murdoch.

Mr. Murdoch: Are we doing mine first?

The Acting Chair: Yes, sir. It's page 2a.

Mr. Murdoch: Again, this is one that was sent to me by our critic and is from the ONA and the OHA.

I move that paragraph 1 of subsection 3(1) of the bill be amended by adding "but does not include a meeting of an advisory committee referred to in schedule 1 of the act."

The Acting Chair: Comments, Mr. Murdoch?

Mr. Murdoch: Is it still in order?

The Acting Chair: Yes, it is.

Mr. Murdoch: I wanted to make sure that was OK.

The Acting Chair: Any other comments? Did you have any rationale sent to you, Mr. Murdoch?

Mr. Murdoch: No, I didn't.

The Acting Chair: Unfortunately, he didn't have any rationale from the critic. Any other comment?

Ms. Martel: Legislative counsel, I'm assuming that because the motion that was carried by Ms. Di Cocco specifically mentioned that it did not include meetings of fiscal advisory, medical advisory and nursing advisory, the concerns that Ms. Witmer had would have been addressed by the wording in the schedule. Am I correct?

The Acting Chair: I'm thinking the same thing, and I think that's what Mr. Murdoch was referring to when he said it might indeed still be out of order. Does that not cover it?

Mr. Murdoch: Yes, that's what I was wondering about.

The Acting Chair: It says, "but not an advisory committee that is established by a board under the Public Hospitals Act and its regulations."

We have advice that that's the case, and it would then be out of order. We tried.

Mr. Murdoch: That's what I sort of thought.

The Acting Chair: You thought that right off the bat, Mr. Murdoch?

Mr. Murdoch: I could have withdrawn it, but that's fine.

The Acting Chair: Absolutely; I understand. We're all navigating this together.

Next, page 3: Ms. Di Cocco.

Ms. Di Cocco: I move that paragraph 1 of subsection 3(1) of the bill be struck out and the following substituted:

"1. The meeting is one which the members of the body are entitled to attend, such as a meeting of the entire membership of the body or a meeting of a committee or other division of the body."

It's just the wording, again, that was advised by legal counsel.

The Acting Chair: So legal counsel advises that this is the wording that should be in the bill.

Any further comment or debate? There being none, I'll call the question on page 3, as moved by Ms. Di Cocco. All in favour? Opposed? Carried.

Section 3, as amended: All in favour? Against? Approved.

Shall section 4 carry—that's 4a. It's a new section. That's 4.1.

Mrs. Van Bommel: I just want to interject here, because I see something that concerns me. We say, "posting in a publicly accessible location and by publishing on its Web site." In some remote communities, Web sites aren't even available, so we're putting an onus on bodies that they can't necessarily comply with. I would like to propose a friendly change of wording to say, "and/or," so it gives the governance body an opportunity to use whatever is available to them.

The Acting Chair: If we can stand down this section to draft the motion so that it can be a friendly amendment that Ms. Di Cocco could agree with—we'll have to wait for just a moment to do that. Can we stand down section 4, please?

Mr. Murdoch: On section 4, "A designated public body shall give reasonable notice to the public of every of its meetings...." Is that right? That's what I have in mine.

The Acting Chair: "Of every of its meetings."

Mr. Murdoch: "Of every of its meetings." What does that mean? Is that English?

The Acting Chair: I don't think so.

Mr. Murdoch: I'm trying to read it, and I thought, this doesn't make a lot of sense to me. But a lot of bills don't make a lot of sense.

Ms. Macnaughton: When I draft the motion for Ms. Van Bommel, we'll fix that one.

The Acting Chair: Thank you for that catch. We'll get that corrected with the friendly amendment. We'll call it friendly English.

So we're standing down section 4 and moving to the new section, 4.1.

1110

Ms. Di Cocco: I move that the bill be amended by adding the following section:

"Prohibition on new agenda items

"4.1(1) Once a designated public body has given notice to the public of a meeting under section 4, it shall not add a new item to the agenda for that meeting unless the item,

"(a) relates to a matter requiring immediate attention, and the body has provided adequate notice to the public of the change to the agenda by posting the amended agenda in a publicly accessible location and publishing the amended agenda on its Web site or in any other print or electronic medium of mass communication; or

"(b) relates to a situation or an impending situation caused by the forces of nature, an accident, an intentional act or otherwise that constitutes a significant danger to life, health, property or the environment.

"Two-thirds majority vote required to amend agenda

"(2) A two-thirds majority of the members of the body shall vote in favour of adding a new item to the agenda under clause (1)(a).

"Majority vote required to amend agenda

"(3) A majority of the members of the body present and entitled to vote shall vote in favour of adding a new item to the agenda under clause (1)(b)."

The Acting Chair: Discussion?

Ms. Di Cocco: There was no section in the bill that would provide, as I said, for some situations whereby a meeting had to be called quickly because of an emergency or other situation. It was just an omission in the bill, and we felt it was prudent to put it in.

Mr. Murdoch: I'm a bit confused. They call a meeting and all of a sudden they have to add something to the agenda. You have to get out there, you have to have a two-thirds vote to add it to the agenda, but you haven't had the meeting. I don't know how you do all this. I'm not saying there's anything wrong, but it says, "A two-thirds majority of the members of the body shall vote in favour of adding a new item to the agenda under clause (1)(a)." You've already called this meeting and you want to add something to it. Now you've got to have a meeting to add something to it. That's what it looks like to me. I can see where you need something if an emergency comes up, but I would assume the clerk would just add that, maybe in consultation with the mayor. You're saying they need two thirds to add it, but you have to have a meeting to get two thirds to add it. How would you do that? You couldn't have a meeting because you didn't post it. You have to have a special meeting to add something to it. It's getting confusing here.

The Acting Chair: I'll defer to Ms. Di Cocco.

Ms. Di Cocco: Sure. My understanding is that the intent is to try to discourage adding items to the agenda at the last minute, because that's a way of being able to add things on an agenda when nobody has had a chance to see what was on the agenda. This is a public meeting. I'm sure they do this as well. They could poll. I'm not saying they have to vote in favour of adding it to the agenda. Let's say they're sitting down, having a meeting, and something has to be added on to the agenda because of whatever. Well, at that meeting, two thirds have to agree that it has to be added on.

Mr. Murdoch: That would be no problem, but you've got it ahead of that, that they would have to give the public adequate notice, but you wouldn't be able to do that. It's really confusing.

OK, so we're having our meeting right here now, and all of a sudden there is a catastrophe or something. We have to add it on and we could say two thirds would vote for it and that's fine, but this is about adding it to the agenda ahead of time, and you can't do that. It's pretty confusing. I think it is.

Ms. Di Cocco: I would say that (a) is about what already has been provided. There's adequate notice. It's a normal meeting. So under, let's say, extenuating circumstances, if something has to be added on to that agenda that's already in place and the public has been notified about it, then two thirds of that body has to simply vote. That's the intent.

Mr. Murdoch: That's a whole different thing than you're adding here.

Ms. Di Cocco: I guess that's a different interpretation than what my interpretation is.

Mr. Murdoch: You're saying—this is saying, not you—"the body has provided adequate notice to the

public of the change to the agenda....” So you can’t do that having a two-thirds vote, because you don’t have a meeting ahead of time.

Ms. Di Cocco: No, but it’s already—

Mr. Murdoch: You’ve had the meeting—that’s all right. I agree. You’ve got a sign up or you’ve posted it that there’s going to be a meeting on whatever.

Ms. Di Cocco: Yes.

Mr. Murdoch: Now there’s a change that’s happened, but it happened before you had the meeting.

Ms. Di Cocco: It doesn’t say that it happened before you had the meeting.

Mr. Murdoch: But you have to post it. It says “adequate notice to the public of the change to the agenda.” Read number (1). It says “to the public of the change to the agenda.” The change hasn’t happened until you’ve already got to the meeting; then you can have two thirds. But unless you do that, you don’t get a two-thirds vote to change it. What you want to do is right, but it’s not—

The Acting Chair: I think we’ve got the point made, and we need to have clarity as to whether or not that’s what we’re hearing. I do have a list, but unless it’s to clarify this, I’m going to defer to legal counsel to see if there’s—Ms. Martel, I think you wanted to comment on that.

Ms. Martel: I think he’s right. The problem I see comes with the wording of “the change to the agenda.” I understand that the public body has duly posted a notice of an agenda with the various mechanisms; we’re fine with that. What follows is that when people come to a meeting, at the start of the meeting, when you normally call for the agenda and all in favour, of necessity there may be at that point a change required and you’re going to have to have a two-thirds vote. But the dilemma with the current wording is that you can’t post that change to the agenda ahead of time. There’s not a way to do that. So I think the wording of “the change to the agenda” has to come out; otherwise, it just can’t be done.

The Acting Chair: Let me see if I can work this. What I’m hearing is the intent versus the wording. The intent is accepted that we would post the agenda, the intent is accepted that once you get to this meeting, if there is an agenda change, it would take two thirds to make that change, but there seems to be a discrepancy between what the wording is saying and what the intent is. Can we then take a look at whether or not there can be words moved, changed or wordsmithed to offer this as a friendly amendment?

Mr. Murdoch: You could leave the first paragraph. Then you can go down to “(2) A two-thirds majority of the members of the body shall vote in favour of adding a new item to the agenda under clause (1)(a).”

The Acting Chair: We’re just going to get that checked, Mr. Murdoch, and I think we’re headed in the right direction here. At this time, I think it would be appropriate for us to take about a five-minute break so that we can get the previous friendly amendment corrected, get this one corrected, and then come back in about five minutes.

Mr. Murdoch: I suggest that you just get rid of this.

The Acting Chair: The whole thing?

Mr. Murdoch: Yes, because you know you’re going to run into all kinds of problems. I know what you tried to do, but you’re into the Municipal Act and everybody has their own bylaws and this kind of stuff. I just think you’re going to get into a real mess. I would get rid of it.

The Acting Chair: Let’s take a five-minute recess, then, and we’ll get right back and see if we can get this thing nailed.

The committee recessed from 1119 to 1124.

The Acting Chair: Thank you for your patience. I appreciate the flexibility you’ve afforded us so that we can get this done. I still have a speaking list, so that everyone is aware, and I will stick to it.

Mr. Murdoch has the floor with the question of clarification, and I think we have that clarification now with a friendly amendment.

Ms. Di Cocco: I’m going to withdraw the motion, but I will read the new motion into the record.

The Acting Chair: That’s fair.

Ms. Di Cocco: I move that the bill be amended by adding the following section:

“Prohibition on new agenda items

“4.1(1) Once a designated public body has given notice to the public of a meeting under section 4, it shall not add a new item to the agenda for that meeting unless the item,

“(a) relates to a matter requiring immediate attention, and the body has provided notice to the public of the change to the agenda by posting the amended agenda in a publicly accessible location or publishing the amended agenda on its Web site or in any other print or electronic medium of mass communication; or

“(b) relates to a situation or an impending situation caused by the forces of nature, an accident, an intentional act or otherwise that constitutes a significant danger to life, health, property or the environment.

“Two-thirds majority vote required to amend the agenda.

“(2) A two-thirds majority of the members of the body have agreed to add a new item to the agenda under clause (1) (a).

“Majority vote required to amend agenda

“(3) A majority of the members of the body present and entitled to vote shall vote in favour of adding a new item to the agenda under clause (1)(b).”

The Acting Chair: What has just transpired is an attempt to remove the requirement of having a two-thirds vote at a meeting. It sounds to me, if I’m hearing this right, that they’re asking that two thirds of the voting committee would be contacted ahead of time to allow the agenda to be changed.

Ms. Di Cocco: I’ve just been notified by legal counsel that instead of just “agreed” it should read, “must agree to add.” Sorry its—

The Acting Chair: Subsection (2). Let’s take a look at it together so that we’re on it.

Ms. Di Cocco: Subsection (2).

The Acting Chair: “A two-thirds majority of the members of the body must agree to add a new item to the agenda under clause (1)(a).”

Ms. Di Cocco: That would mean a phone poll would have to agree to it.

The Acting Chair: That can happen before the meeting, and it can happen during the meeting.

The other change that was made on (3): “A majority of the members present”—wait a minute, did it stay the same. OK. Sorry, I heard something different.

So that’s the change: “shall vote in favour of” was removed, and “must agree to add” was included.

Now, we did hand the floor to Mr. Murdoch, and it shall be that way.

Mr. Murdoch: That sounds better, anyway. I honestly don’t even think we should be getting involved in that, because I think different boards probably have different ways of dealing with this. I know it might clarify it all, but I think we’re really opening up a can of worms that we may wish we hadn’t. I would have thought that maybe you just might have taken the whole section out, but you’ve got it there, and it will work better now, the way you have it. That’s up to Ms. Di Cocco whether she wants to keep it in there or not. My recommendation is to just get rid of it.

The Acting Chair: Ms. Van Bommel.

Mrs. Van Bommel: I just wanted to add the “or” part, and we’ve done that.

The Acting Chair: That was done in the changes.

Mrs. Van Bommel: Yes, exactly, so I don’t need to speak to it any further.

The Acting Chair: Mr. Craitor, I had you on.

Mr. Craitor: I think you’ve dealt with it. That’s fine.

1130

Ms. Martel: I’m not trying to cause a problem here. I was trying to listen very carefully to clause (a), and I still heard “amended agenda” and a requirement to try and post an amended agenda. It would be fine and dandy if you could poll people before, if you had enough time to actually do that. I think logistically we are asking a lot of people. You know that at any of these meetings things come on to the agenda not long before the meeting, and I think we just have to recognize that.

I would be more comfortable with a provision that said, “The meeting starts. There is a change to the agenda at that time. There has to be a two-thirds majority to allow the change.” We have already provided a requirement for an agenda to be posted. I’m hoping the whole agenda is not going to be changed at the start of the meeting, but I’m going to give people the benefit of the doubt that something urgent is going to come on at the start and there’s going to have to be a change.

I just think we are not being realistic to think that a clerk is going to be trying to poll people at 5 o’clock to change an agenda item for a meeting at 7 and trying to find a mechanism to actually post an amended agenda at that time. I think that’s beyond the pale. We should deal with urgent matters at the meeting itself with a two-thirds majority, recognizing that there has been notice of the

meeting already posted. An agenda has been posted, it may change, but it’s going to require two thirds based on an urgent matter.

The Acting Chair: Any further discussion?

Mr. Murdoch: Rather than throwing it out, then. I can go along with that because that’s simple. If that’s what you need, though, just make it as simple as that. We don’t need subsections (1), (2) and (3); we just need clause 4.1(1)(a), whatever it is, and add that a two-thirds majority is needed to change the agenda. That’s as simple as I think you’re going to get.

Shelley’s right: They’re never going to have time to re-post it and all this. If they did, then there are costs, and we’re going to hear about who’s going to pay for the costs. I think if you just had something really simple there, I could support it.

The Acting Chair: Any further debate or comment? There being none, as friendly amended, I think it’s called, with the word changing, I think we all agreed that we could try to change that.

Now we have on the table for us the new section 4.1, as moved by Ms. Di Cocco. All in favour? Opposed? Carried.

Now we are prepared to go back to section 4, as revisited.

Mrs. Van Bommel: I move that section 4 of the bill be amended by striking out the portion before clause (a) and substituting:

“Notice of meetings

“4. A designated public body shall give reasonable notice to the public of each of its meetings by posting in a publicly accessible location or by publishing on its Web site, or both, or by publishing in any print or electronic medium of mass communication.”

Thank you to legal counsel for that.

The Acting Chair: The stood-down section 4 is now this one with this amendment. Are there any comments or questions?

Ms. Van Bommel, you have first shot.

Mrs. Van Bommel: I think I explained my rationale for this.

The Chair: Anyone else? Questions or comments? There being none, we’re voting on Ms. Van Bommel’s motion. All in favour? Opposed? Carried.

Shall section 4, as amended, carry? All in favour? Opposed? Carried.

Ms. Di Cocco: section 5.

Ms. Di Cocco: I move that subsection 5(2) of the bill be amended by adding the following clause:

“(a.1) the acquisition or disposal of property by the designated public body will be discussed;”

The Acting Chair: Comments, Ms. Di Cocco, on your amendment?

Ms. Di Cocco: Only that it was just adding one word. It was “acquisition or disposal of property,” because the disposal of property also provides some problems, if you want to call it that, in the discussion of negotiations, I was told. So again, legally it’s important to put the disposal of it in there as well.

The Acting Chair: OK. Any others?

Mrs. Van Bommel: Just a quick comment: It says “financial, personal or other matters” in clause 5(2)(a). I’m just concerned about the “other matters.” Is that an opportunity for a body to slip something in?

The Acting Chair: Are you seeking clarity?

Mrs. Van Bommel: Yes, I am.

Ms. Di Cocco: It’s in the whole body of the paragraph. It defines and clarifies it: “(a) financial, personal or other matters may be disclosed of such a nature that the desirability of avoiding public disclosure of them in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that meetings be open to the public.”

The Acting Chair: Are you seeking clarification to see if that’s inside of this, if this is something different?

Mrs. Van Bommel: Yes. I just want to make sure that the whole issue of “other matters” doesn’t open a door that we don’t intend to open.

Ms. Di Cocco: This certainly was reviewed, as I said, by the legal people. I think I asked the same question, and there was a reason for that. I don’t know if it can be clarified for me again.

The Acting Chair: I’m just going to seek clarity on what you’re asking. In the amendment that we’re dealing with right now, the acquisition or disposal of property, which has been advised by legal counsel to be incorporated to cover off a missing word: That’s this purpose. You’re asking in clause (a) if we’re opening a door that needs to be closed because of circumstances you wouldn’t go public with?

Interjection.

The Acting Chair: OK. There are two different issues, and I’ll have legal counsel speak to (a) instead of (a)(i), which is the specific amendment we’re talking about right now.

Ms. Macnaughton: What the bill says in 5(2)(a) is that:

“a designated public body may exclude the public from any part of a meeting if,

“(a) financial, personal or other matters may be disclosed of such a nature that the desirability of avoiding public disclosure of them in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle” of having open meetings. That’s what is in the act now.

The amendment that’s been proposed is to add another reason for excluding the public, and that would be, to be more specific, if there’s going to be discussion of the acquisition or disposal of property. Presumably, Ms. Di Cocco was concerned that that would be disclosing confidential negotiation information, perhaps with respect to purchasing and selling property.

The Acting Chair: So this actually closes the door on another piece that could have been opened if we hadn’t said it, because there are going to be people looking to buy pieces of property from the municipality. The municipality, in its discussions about disposing of or acquiring lands for their use, could prejudice the ability of

somebody to either purchase or sell land. That’s the purpose of this particular section, OK? I think I got that right.

We still have the speaking list. Ms. Di Cocco has said that it’s for clarity purposes. I’ll entertain Mrs. Van Bommel. Are you OK with what we just went through?

Mrs. Van Bommel: I’m not quite sure yet. I’m still just a little bit concerned here.

Ms. Martel: My concern would be a hospital board making a decision to sell hospital lands, which I think should be a public matter. I’m not suggesting that when they’re deep in negotiations and there are price tags attached to it, that might be a matter for the public, although if it is public lands, I might even like that too. But for the whole discussion—the possibility that the board is even discussing that—I think that’s an item that should be on an agenda and a discussion take place in the public about why the hospital board would feel that’s necessary and what is the intent, perhaps, of the sale. I say that with respect to the sale of lands. There might be other municipalities or school boards doing the same thing, and I would think you’d want the public to know about that, since the public paid for those assets.

1140

The Acting Chair: We’ll defer to legal counsel.

Ms. Macnaughton: I would just point out for clarification that the lead-in wording on 5(2) says “a designated public body may exclude the public,” so it’s not mandatory. I would just point that out.

The Acting Chair: I understand your logic. The concern I would have, though, in reverse, would be that if you’re going to purchase a property—let’s say the hospital needs more land and they’re going to purchase a property—and that becomes public too soon, how much would the hospital be spending on that property in order to obtain it?

Ms. Martel: That may be the case, Mr. Chair, but surely there should be a public discussion about the decision for the hospital to move in that direction in the first place. When you’re talking about hospitals and school boards, you’re talking about assets that were paid for by taxpayers. So if there’s going to be a disposal of those or a sale of those, you’d think the taxpayers that were party to that should at least be made aware that that decision is something the board is considering. I understand that it says “may.”

The Acting Chair: I wasn’t offering argument; I was offering example. It’s not my place to do that, so I apologize. Let me get myself back on track by staying the course as Chair.

Ms. Martel still has the floor. Do you have any further comment, Ms. Martel?

Ms. Martel: I understand that it says “may,” so it’s not an obligation. I don’t think I want to give people a lot of room to move when they’re talking about the potential disposition of a public asset, that they may go in camera for that and it comes out later, when the deal is already done, and people have had no time to influence that decision or have their say. I don’t think we want to be in that position.

The Acting Chair: Further discussion? I think I saw your hand, Mr. Murdoch, and then I'll go to Ms. Di Cocco.

Mr. Murdoch: You're doing a good job as Chair, so don't feel bad.

I just want to say that this shows that the bill isn't right, because we're dealing with too many different people in it, whereas we might want to deal with hospitals under their act and municipalities under theirs and education under theirs. This is what happens when you try to throw them all into one lump, and then we find that we're in this little bit of a bind. I just had to throw that in again because I did at first. There are a lot of good things here, but I think they should have been dealt with differently.

The Acting Chair: Thank you. Ms. Di Cocco.

Ms. Di Cocco: As I said, I've debated this "acquisition or disposal of property" at length. The original amendment had, "the acquisition of property by the designated public body will be discussed."

It was pointed out to me in no uncertain terms that sometimes the disposal of property provides—there are negotiations that have to go on. Unless legal counsel can assure me that the negotiations aren't going to be jeopardized, I certainly don't have any issue with just putting in "the acquisition" and removing "or disposal" if it's already in the act.

The Acting Chair: I'll have counsel discuss that.

Ms. Macnaughton: The bill currently provides, as we discussed a minute ago, in clause 5(2)(a) that the public may be excluded when there is any discussion about financial matters that could be "disclosed of such a nature that the desirability of avoiding public disclosure" is "in the interest of" the public or a person, and that would outweigh the desirability of public disclosure. Perhaps that would be caught in there.

Your amendment, in adding clause 5(2)(a.1), just expressly states something that might already be included within clause 5(2)(a).

Ms. Di Cocco: I think there's a motion 5. This was the new one. I don't know if you have the two of them in front of you. Can I just withdraw this one?

The Acting Chair: You can withdraw a motion at any time.

Ms. Di Cocco: OK. I will withdraw this motion.

I will put this on the record for section 5. I move that subsection 5(2) of the bill be amended by adding the following clause:

"(a.1) the acquisition of property by the designated public body will be discussed."

The Acting Chair: Let me just point out one thing. That means that page—oh, it's not numbered. Page 4?

Interjection.

The Acting Chair: New 5. The page in front of you that says "new 5" has been withdrawn, and then we're moving on to the next amendment, which is just page 5. She's now moved this other one; we have to withdraw and we move the next one. That's what we've done, and we now open the debate again on the new amendment that's in front of us. I'm just trying to stay kosher here.

Mr. Murdoch: The new old one.

The Acting Chair: The new old one, yes. So now what you have before you is the same amendment except "disposal of property."

Further comments?

Ms. Martel: I'm not sure why you wouldn't just take out both. I think a board has a responsibility to tell the public what they're up to, if they're selling something or if they're using public money to acquire something. When you get into the fine details of the negotiations, I think at least in terms of hospitals it would be covered because their finance committee would probably be dealing with it, and maybe it's a public body that's not included, but I just think if somebody's moving down that road, the public should be aware of that. People in the community have a right to know that. I would not speak to either of them. I would take that right off.

Ms. Di Cocco: As counsel has indicated, you feel that it's probably captured in that broader context?

Ms. Macnaughton: I think it is, to the extent that if you look at clause 5(2)(a), it talks about financial discussions where disclosure would be detrimental.

Ms. Di Cocco: The last thing I want to do is make things more complicated, so I'll withdraw 5.

The Acting Chair: Thank you for that discussion. That's probably the committee at its best.

Page 6: Ms. Di Cocco. Both new 5 and 5 have been withdrawn.

Ms. Di Cocco: I move that subsection 5(2) of the bill be amended by adding the following clause:

"(a.2) matters of public security will be discussed."

The Acting Chair: Any rationale there, Ms. Di Cocco?

Ms. Di Cocco: Considering the new times we're in, it was felt that that wording was appropriate in specifying other issues that probably weren't as front and centre before.

The Acting Chair: Any further discussion about the addition, "matters of public security will be discussed"? All in favour? Opposed? Carried.

Page 7.

Ms. Di Cocco: I move that subsection 5(2) of the bill be amended by adding the following clause:

"(a.3) the security of the members or property of the designated public body will be discussed."

Again, the same rationale as before.

The Acting Chair: Any other discussion? All in favour? Opposed? Carried.

Page 8.

Ms. Di Cocco: I move that subsection 5(2) of the bill be amended by adding the following clause:

"(a.4) personal health information, as defined in section 4 of the Personal Health Information Protection Act, 2004, will be discussed."

That was added because, again, it was in sync with the language under the hospitals act that dealt with professional health information, which we felt we needed to specify here.

The Acting Chair: Any other discussion? Seeing none, all in favour? Opposed? Carried.

Page 9.

Ms. Di Cocco: I move that clause 5(2)(f) of the bill be struck out and the following substituted:

“(f) litigation or contemplated litigation affecting the designated public body will be discussed, or any legal advice provided to the designated public body will be discussed, or any other matter subject to solicitor-client privilege will be discussed.”

1150

The Acting Chair: We have to backtrack. Could you reread the last part of that sentence, please?

Ms. Di Cocco: “Or any other matter subject to solicitor-client privilege will be discussed.”

The Acting Chair: Thank you. The rationale, Ms. Di Cocco?

Ms. Di Cocco: Again, it was just legal advice that this notion of solicitor-client privilege wasn't captured in the bill.

The Acting Chair: Any further discussion? Seeing none, all in favour? Opposed? Carried.

Shall section 5 carry, as amended? All in favour? Opposed? Carried.

Section 6; we've got no amendments. Shall section 6 carry? All in favour? Opposed? Carried.

Section 7: Ms. Di Cocco.

Ms. Di Cocco: I move that subsection 7(3) of the bill be struck out and the following substituted:

“Minutes to be made available

“(3) A designated public body shall, where the minutes of its meetings are adopted, post the minutes in a publicly accessible location or shall publish them on its Web site at the same time as the adopted minutes are made available to the members of the designated public body.”

The Acting Chair: I thank you for that word “or.” It provides us with the opportunity that Ms. Van Bommel will not have to do an amendment.

Any discussion? Seeing none, all in favour? Opposed? Carried.

Shall section 7, as amended, carry? All in favour? Opposed? Carried.

Shall sections 8 through 14 carry? Any concerns or issues? None? All in favour? Opposed? Carried.

We are now on section 15, page 11 of your amendments: Ms. Di Cocco.

Ms. Di Cocco: I will withdraw page 11.

The Acting Chair: Withdraw?

Ms. Di Cocco: Yes.

The Acting Chair: Shall section 17 carry? Sorry, I'm getting ahead of myself. Shall section 15 carry? All in favour? Opposed? Carried.

Section 16, page 12 of your package: Ms. Di Cocco.

Ms. Di Cocco: I move that clause 16 (1) of the bill be amended by adding—

The Acting Chair: You must add “(a).”

Ms. Di Cocco: Sorry. I move that clause 16(1)(a) of the bill be amended by adding “subject to subsection (1.1)” at the beginning.

The Acting Chair: We have to stand down, right? In order to get us (1.1) in your motion, we have to stand this down until we move to the next page. I got that one really quick. Any objections? Thank you for allowing that.

Next, page 13 of your package, section 16: Ms. Di Cocco.

Ms. Di Cocco: I move that section 16 of the bill be amended by adding the following subsection:

“No order under s.16(1)(a) where adverse impact on acquired rights

“(1.1) The commissioner shall not make an order under clause (1)(a) if,

“(a) such an order would adversely affect the rights of any person acquired under or by virtue of a decision, recommendation or action of a designated public body at a meeting; and

“(b) the person acted in good faith and without actual notice of the failure of the body to conform to the requirements of this act.”

The Acting Chair: Rationale?

Ms. Di Cocco: Just that there is the provision that decisions made inappropriately would become null and void if they were found to be made behind closed doors. Nonetheless, the rights of people who have entered into agreements with the public body and have done so in good faith should not be—they should have the rights of any person acquired by “virtue of a decision.” In other words, they won't be adversely affected. If it was to impact them financially in a huge way—they've already been out there and have done what they had to do under an agreement in good faith—there's a provision there to make sure it doesn't adversely affect them.

The Acting Chair: Further debate?

Mrs. Van Bommel: Just a point of clarification. You say “acted in good faith.” Does that provide for a situation where council has made a decision and you have one individual who doesn't particularly like it and just wants to create roadblocks for that, whereas the rest of the community agrees? Is there any way that nuisance-type complaints can be avoided?

Ms. Di Cocco: The nuisance complaints are covered under the bill. The commissioner makes the determination of whether it is a nuisance complaint; he or she would determine that. There is a clause in there.

Mrs. Van Bommel: I just want to be sure that this doesn't open the door to someone creating a block for a community to do a thing that they feel is important and that the majority of the community is in agreement with—everybody's acting in good faith.

Ms. Di Cocco: Yes. From the legal advice I received, there is provision for that.

The Acting Chair: OK. That's helpful.

Any further discussion? There being none, shall the motion carry? All in favour? Opposed? Carried.

We go back to the stood down motion. Now we stand up. I'll use the opposite language. Is that lawyer talk? Ms. Di Cocco.

Ms. Di Cocco: I move that clause 16(1)(a) of the bill be amended by adding “subject to subsection (1.1)” at the beginning.

The Acting Chair: Clarification, if necessary? That's pretty straightforward. Any other comment? There is clarification needed.

Ms. Macnaughton: This is just a technical amendment to refer to the subsection. Clause 16(1)(a) is subject to whether or not it's overruled by (1.1), which was just discussed.

The Acting Chair: Very good. OK? It's as clear as mud.

All in favour? Opposed? Carried. We got two in a row.

We are now moving to 16, as amended. Shall section 16, as amended, carry? All in favour? Opposed? Carried.

We can do 17, 18, 19, 20, 21 and 22. Shall those sections carry? All in favour? Opposed? Carried.

We are now on section 23.

Ms. Di Cocco: I move that section 23 of the bill be amended by adding "except to the Freedom of Information and Protection of Privacy Act and Municipal Freedom of Information and Protection of Privacy Act and" after "prevail over any other act or regulation."

The Acting Chair: Clarification or comment?

Ms. Di Cocco: This was a legal rationale. I don't know if our legal people can go back and explain why this was advised.

The Acting Chair: For clarification purposes, this legal counsel was not aware of that. You've got advice from other legal people, which means what it means—without editorial, right, Bill?

Catherine, any comment on that, to assist for understanding?

Ms. Macnaughton: I can explain what the effect of it is. It means that the section will now read:

"Subject to the regulations made under clause 24(c), in the event of a conflict, this act and its regulations prevail over any other act or regulation, except the Freedom of Information and Protection of Privacy Act and the Municipal Freedom of Information and Protection of Privacy Act."

1200

The Acting Chair: I guess what I'm hearing is that there's a hierarchy of acts and laws that supersede each other, and we've plugged this one in to the ones that it shouldn't be over.

Ms. Di Cocco: The reason, if I recall, and I do now recall why—it is in case there is a dispute about privacy and encroaching on someone's privacy, and then the current laws that are there with respect to protection of privacy come into play. That's with the information and privacy act and also the Freedom of Information and Protection of Privacy Act, under the Municipal Act, so that there's no conflict.

The Acting Chair: Mrs. Van Bommel.

Mrs. Van Bommel: I just need a point of clarification from our legal counsel. Ms. Martel talked about the eventual revision of the Municipal Act. In the event that we have a new Municipal Act, which creates different standards under this, which would prevail at that point? Would the new act have to state that it prevails over this act? I'm not quite sure what would happen if you have a

situation where there's going to be a conflict between this act and any new act. Could legal counsel clarify that for me?

Ms. Macnaughton: I think, in that situation, you would want to look at this act and the Municipal Act revisions and make whatever amendments you wish to make at that point, in accordance with whatever the policy is at that time.

The Acting Chair: Any further clarification or questions? Seeing none, all in favour? Opposed? Carried.

We've dealt with the rest of the package. So shall section 23, as amended, carry? All in favour? Opposed? Carried.

Shall section 24 carry? All in favour? Opposed? Carried.

Shall section 25 carry? All in favour? Opposed? Carried.

Shall section 26, the short title, carry? All in favour? Opposed? Carried.

Shall the title of the bill carry? All in favour? Opposed? Carried.

Shall Bill 123, as amended, carry? All in favour? Opposed? Carried.

Shall I report the bill, as amended, to the House? All in favour?

Mr. Murdoch: Can I just say something here?

The Acting Chair: I will acknowledge you, Mr. Murdoch.

Mr. Murdoch: Thank you. As I've said before, I think a lot of things in here are pretty good, but I think they should have been done differently and the different acts should have been amended. When you come to the finish here, I'd like to see a recorded vote on the motion on the floor right now, if I could, please. I'd just like a recorded vote the last one.

The Acting Chair: Absolutely. Ms. Di Cocco, comment?

Ms. Di Cocco: I think that this discussion we've had over a number of years now, but also this bill, in the way it has been, if you want, simplified—I think it starts and it also puts on notice the bodies that—again, we have to evolve into the standard that should be there in the first place. It kind of puts on notice the areas that we've been talking about here at the beginning of this discussion and other agencies that have a moral authority to be conducting their business in the open. Again, having something that has some teeth and some backbone then begins to change the attitude and the culture and prevents it from sliding in the other direction.

The Acting Chair: Thank you, Ms. Di Cocco. Mr. Craitor?

Mr. Craitor: Obviously, I'm not quite pleased, because a number of the amendments I put forward, and Shelley's amendments as well, didn't pass. I wanted to see them in there. Having said that, I'm going to support the bill because it starts the process. I've said that back in my community as well. I may or may not be able to get the amendments that I want put forward, but I do believe in at least starting the process. It's quite possible, with some of the amendments we put forward that weren't

supported today, that as time goes on they may be able to be added in by regulation.

There is a loud message, and the member is quite right. I should share with you that even with the parks commission, there is suddenly a change in culture down there. They are having more consultation meetings with the public about proposed changes or directions they want to go in. They are talking much more to the media to share their situations, the problems and why they are going in certain directions. So the bill has generated some interest. My local CCAC has come in to see me on a number of occasions, including on Monday, so obviously they are hearing the message as well.

So it's a positive bill. It's not quite the way I would have liked to see it, but it does open the door, and that's something I do support, so I am going to support it.

The Acting Chair: Any further comment?

Seeing none, there has been a request for a recorded vote. We'll do that now, please.

Ayes

Craiton, Di Cocco, Martel, Ramal, Van Bommel.

Nays

Murdoch.

The Acting Chair: Carried. Thank you very much, everyone.

The committee adjourned at 1206.

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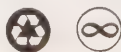
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLS

Wednesday 7 December 2005

COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ

Mercredi 7 décembre 2005

*The committee met at 1008 in committee room 1.*RONALD McDONALD HOUSE
(LONDON) ACT, 2005

Consideration of Bill Pr17, An Act respecting Ronald McDonald House (London).

The Vice-Chair (Mr. Tony C. Wong): Ladies and gentlemen, this is the standing committee on regulations and private bills. I call the meeting to order. The first order of business is Bill Pr17, An Act respecting Ronald McDonald House (London). The sponsor of this bill is MPP Deb Matthews. MPP Khalil Ramal will be speaking on her behalf. The applicant is represented by Keith Trussler and Russell Gibson, legal counsels. I will first ask MPP Khalil Ramal to make remarks, if he has any.

Mr. Khalil Ramal (London-Fanshawe): Good morning, Mr. Chair. I have the privilege and honour to sponsor this bill on behalf of my colleague Deb Matthews from London. She is not able to attend this morning, so she asked me to represent her today.

Two gentlemen have come from London to be the applicants and represent the board of directors of Ronald McDonald House in London. We have with us Keith Trussler and Russell Gibson, both legal counsels on behalf of the board of directors of Ronald McDonald House. I believe they came this morning to ask us to amend legislation to enable the municipality to exempt them from certain taxes. Ronald McDonald House has been used for a number of years as a lodge to help families with children who have come to London Health Sciences Centre suffering from some kind of sickness. They also have charitable status, which means they are exempt from taxes in the federal jurisdiction. They are with us today to explain why they need this bill to pass to give them the ability to be exempt from city taxes. I would ask both of them, or whichever chooses to speak, to explain what's significant and important about the passing of the bill.

The Vice-Chair: Thank you, Mr. Ramal. I would now invite the applicant to speak. Please introduce yourselves.

Mr. Keith Trussler: Thank you, Mr. Chairman. My name is Keith Trussler, and I'm here not as a lawyer or as counsel for the charity, but I am here as a member and a past president and current board member. Mr. Russell

Gibson is counsel for the charity, and he is to my immediate right.

The Vice-Chair: Welcome.

Mr. Trussler: Thank you. We are here to seek approval of legislation and to answer questions regarding Bill Pr17, the result of which will be to exempt lands upon which the Ronald McDonald House is situated in London, Ontario from taxation for municipal purposes.

Southwestern Ontario Childrens Care Inc. is a not-for-profit corporation and a compliant registered charity with Canada Revenue Agency. In 2005, we celebrated our 20th anniversary of providing a home away from home for families of seriously ill children. With 17 available rooms, we provide accommodation to roughly 300 to 400 families per year. In the last calendar year alone, we provided over 4,000 accommodation nights. These family stays last anywhere from a single night to, in some cases, over three months for some families. We charge families \$10 per night. We also provide facilities for food preparation and laundry so that we can re-create, to the best of our abilities and to the extent possible, a home environment, as opposed to that hotel or institutional environment to which they are subjected while their children are seeking and receiving medical care.

No family is ever refused at London's Ronald McDonald House or any Ronald McDonald House for want of ability to pay. Our families, our residents, come from across southwestern Ontario. Interestingly, approximately 30% of our families come from the Windsor area, 14% from Chatham-Kent, 13% from the Huron-Grey-Bruce areas, 10% from Oxford-Perth and other percentages from other locales, including a small percentage from eastern and western Canada each year. This is a testament to the fine children's and pediatric medical facilities in London. Frankly, I don't think Ronald McDonald House is the draw.

We provide these facilities with a staff of three full-time individuals and 10 to 12 part-time staff persons, as well as a volunteer base of 60 day-to-day active volunteers. We also have a board and committee volunteer group comprising another 50 individuals. We self-fund. We receive no government funding of any sort.

We conduct this operation each year with an annual budget of approximately \$350,000. This expected tax relief is material in terms of our annual operating budget. The expected relief is on the order of approximately

\$15,000 per year. Our efforts in seeking private legislation to accomplish this exemption from municipal taxes and the school portion, which will follow, follows other similar successful efforts by the Toronto house in 1986 and Ottawa's Ronald McDonald House in 1993, respectively.

We have participated in an extensive consultative process at the local level with our municipal and education officials and have come forward with their unqualified support for this initiative. We believe the bill, subject to a few amendments which you will hear this morning, reflects the understanding, intentions and mechanical agreement, I guess, of all the necessary stakeholders.

I'd be pleased to answer any other questions you might have.

The Vice-Chair: Thank you, Mr. Trussler. Comments and questions from members?

Mr. Dave Levac (Brant): First, let me congratulate and thank those 50 board members, 60 volunteers, 10 to 12 part-time and three full-time staff—all the people who have made Ronald McDonald House work so well. It's obviously a testament to the city, a testament to McDonald's and a testament to the desire of making our sick comfortable. I deeply appreciate the work you do. I'm sure I can say, on behalf of all of us here in the Legislature, that we're very impressed with the work being done by Ronald McDonald Houses across the province.

I just want to be on record as suggesting to you that I've read the comment of Kevin Bain, the city clerk, which is probably the most important part of this in terms of acceptance. It's obvious that the city of London, in their vote, is fully supportive, along with Kevin Bain. We thank you for stealing him from Brantford, because he is doing bigger and better things as a city clerk. He's a friend of mine, and I want to suggest to you that you've got one classy guy there.

Mr. Trussler: I can tell you that Kevin Bain has been extremely helpful.

Mr. Levac: Absolutely, and he most definitely understands what you're providing. Anyway, just a basic thank you and keep up the good work. You have my full support.

The Vice-Chair: Mr. Hudak?

Mr. Tim Hudak (Erie-Lincoln): I just have some general comments on behalf of the Progressive Conservative caucus as well. We are in support of the legislation. We'll obviously consider any amendments brought forward that will make the legislation even stronger. You will certainly find our caucus supportive. Having spent some time in London myself as a UWO grad, I know the outstanding reputation that Ronald McDonald House has in southwestern Ontario. No doubt the strong support they receive from your local members as well as from the city of London speaks very powerfully about your reputation.

I won't belabour the issue. I just want to say, on behalf of the PC caucus, congratulations on your outstanding work, and we're supportive of the legislation.

Mr. Trussler: Thank you so much, sir.

The Vice-Chair: I'm going to invite the parliamentary assistant to make comments for the government.

Mrs. Maria Van Bommel (Lambton-Kent-Middlesex): Actually, I want to say thank you very much, but I'm not going to say it as parliamentary assistant, simply as the MPP for Lambton-Kent-Middlesex. Ronald McDonald House has provided an invaluable service to my rural constituents. I know of one family in particular who used the home on an off-and-on basis for over a year to allow them to stay with their daughter. She didn't survive, but the fact that they were able to be with her, rather than having to drive the long distances back and forth to the hospital, allowed them to spell each other off, give each other a bit of respite. It was an invaluable service to them. I want to say thank you very much for everything you do there.

Mr. Trussler: Those comments are greatly appreciated.

The Vice-Chair: Are there any other interested parties? Seeing none, I will now invite the parliamentary assistant to comment.

Mrs. Van Bommel: I want to propose a motion to amend the bill.

1020

The Vice-Chair: Are we ready to proceed with clause-by-clause consideration now? Agreed?

I'll start with section 1. Shall section 1 carry? All in favour? Opposed, if any? That is carried.

Section 2: Mrs. Van Bommel.

Mrs. Van Bommel: I move that section 2 of the bill be amended by striking out the portion before clause (a) and substituting the following:

"Tax exemption

"2. The council of the city of London may pass bylaws exempting the specified property from taxes for municipal purposes other than local improvement rates."

The Vice-Chair: Any comments or questions on this amendment?

Mr. Hudak: I assume there has been some discussion with the proponents and that these amendments carry their favour.

Mr. Trussler: Yes, that discussion took place earlier today, and we are certainly content with these proposed amendments and have signed off on them.

Mr. Hudak: Thank you.

The Vice-Chair: Further comments or questions? Shall the amendment carry? All in favour? Opposed, if any? That is carried.

Shall section 2, as amended, carry? All in favour? Opposed, if any? That is carried.

Mrs. Van Bommel?

Mrs. Van Bommel: I move that the bill be amended by adding the following section:

"Assessment Act exemption

"2.1 An exemption from taxes granted under section 2 is deemed to have the same effect as an exemption from taxation under section 3 of the Assessment Act."

The Vice-Chair: Questions or comments on this new section? Seeing none, all in favour of the new section? Opposed, if any? That is carried.

Section 3: any comments, questions, amendments? If not, shall section 3 carry? All in favour? Opposed, if any? That is carried.

Shall section 4 carry? All in favour? Opposed, if any? That is carried.

Shall the preamble carry?

Mrs. Van Bommel: I move that the preamble of the bill be amended by striking out “for municipal and school purposes beginning in 2005” and substituting “for municipal purposes, other than local improvement rates”.

The Vice-Chair: Any questions or comments on this amendment? If not, shall the amendment carry? All in favour? Opposed, if any? That is carried.

Shall the preamble, as amended, carry? All in favour? Opposed, if any? That is carried.

Shall the title carry? All in favour? Opposed, if any? That is carried.

Shall the bill, as amended, carry? All in favour? Opposed, if any? That is carried.

Shall I report the bill, as amended, to the House? All in favour? Opposed, if any? That is carried.

Thank you, members. Thank you, applicant, and congratulations.

VQA WINE STORES ACT, 2003

LOI DE 2003 SUR LES MAGASINS DE VINS DE LA VINTNERS QUALITY ALLIANCE

Consideration of Bill 7, An Act to authorize a group of manufacturers of Ontario wines to sell Vintners Quality Alliance wines / Projet de loi 7, Loi autorisant un groupe de fabricants de vins de l'Ontario à vendre des vins de la Vintners Quality Alliance.

The Vice-Chair: The next order of business is Bill 7, An Act to authorize a group of manufacturers of Ontario wines to sell Vintners Quality Alliance wines. Mr. Hudak?

Mr. Hudak: Thank you, Chair. It's been a while since I've been at this particular committee. Do I need to make any motions to begin with, or just—

The Vice-Chair: Would you like to make an introductory remark?

Mr. Hudak: Yes, thank you, Chair. I'm pleased to, and I'm pleased that this bill has been allocated time at committee as well as very interesting extensive public hearings, which we held in my riding, in Lincoln, as well as in Toronto.

Basically, if this act were to pass, it would create VQA wine stores, which have been in existence in British Columbia for some time. The goal here is to give greater market access to our small and medium-sized VQA wine producers. I think all the members here know that VQA wine is 100% Ontario grape product. There's no import and no blended component in VQA wine. It therefore has substantial spinoff benefits to our local grape growers,

associated agriculture industry and municipalities. I do appreciate that upon second reading, we had positive comments and support from all three parties at second reading debate in the Legislature.

The Vice-Chair: Thank you. Are we ready to proceed with clause-by-clause consideration?

Mr. Hudak: I was just getting warmed up. Chair, if I could add a few more things, I just had some other comments on the bill. I'm not going to speak much longer in my introductory comments.

I did want to indicate that I think any solution for our small and medium-sized VQA wineries and for grape growers has a dual function: to do more at the LCBO—and certainly progress has been made. I've enjoyed working with Andy Brandt and his team at the LCBO. The craft winery section has been a step forward. But as we heard at committee from those involved in the industry, you also need other opportunities for the small producers, because many of them are challenged to supply the LCBO stores. It just doesn't fit for them economically or logistically because of the large size of the LCBO and the capacity they demand for these wines. I see VQA wine stores as a solution to give greater market access to the small craft wineries. As members know, for some time they've been restricted to selling only at their site. We're blessed in Niagara or Pelee or Prince Edward county because we can drive to one of these places, but for the vast majority of the population, whether it's in Toronto or Ottawa or Timmins–James Bay, it's a heck of a drive to get down to Niagara to visit one of these wineries. By providing greater market access, that will help their business model and translate into success in the agricultural sector.

Lastly, the government's greenbelt policy has an aim to support the preservation of agricultural land. I believe this fits with the overall goals of that legislation by ensuring that farmland in the greenbelt area, at least the parts of the greenbelt area in the Niagara Peninsula, will have viable grape production into the future.

Those are just my introductory comments. I do thank members of all three parties who have been supportive of this legislation.

The Vice-Chair: Thank you, Mr. Hudak. We'll now deal with comments, questions or amendments to any section of the bill, starting with section 1.

Mr. Peter Fonseca (Mississauga East): I'll just make some general comments in respect to Mr. Hudak's legislation. First, let me say that the Ontario Liberal Party and the government of Ontario fully support our grape growers and winemakers here in Ontario. It's a vital industry. Yes, being protected by the greenbelt is something we're wholly committed to. I just picked up three dozen bottles of VQA wine here for presents over the holiday season. It's a great chardonnay, and I look forward to having some of that myself over the holiday season.

Our government knows how vital this industry is. In May 2004, we set out an amount of \$10 million in additional funding over five years to help this industry.

We're making sure we can address some of the points that Mr. Hudak brought up.

An MOU was signed last week, with four signatories to an agreement with two key points. They highlighted that the government was committed to creating a committee that will address the medium- and long-term issues of this industry. The associate secretary of cabinet will chair this committee. That demonstrates that the government of Ontario really recognizes the importance of this industry and its issues.

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The MOU also clearly articulated a commitment to promoting transparency and clarity for the consumer by presenting VQA wines in LCBO stores and wine retail stores in a manner that clearly distinguishes VQA from non-VQA wines. That is very important.

Where we find there are some obstacles, barriers, challenges—this is unfortunate, but this bill violates the trade agreements that exist right now by increasing the number of wine retail stores selling exclusively domestic wine. I'll just make note that the Consul General wrote to this committee. She wrote on September 28, 2005. US Consul General Jessica LeCroy spelled out that our NAFTA agreements "required Canadian provinces to treat US goods no less favourably than the most favourable treatment of goods from any other province." This would be in violation of NAFTA, and that is something that would have to be addressed.

Another quote: "Bill 7 appears to contemplate the creation of new wine stores that would be licensed to sell only Ontario wines. If enacted in its present form, the measure would appear to prevent US wine from being distributed through these stores. As such, the bill would seem to raise serious questions as to its consistency with the CFTA Article 804.1 therefore with NAFTA annex 312.2." This is from the US Consulate General. I just want to address those concerns with this bill.

Mr. Hudak: I appreciate Mr. Fonseca's comments. I think one thing we need to bear in mind is that there will be groups that will oppose anything that promotes domestic industry if there's competition from imports. We heard comments against the bill from the importers, for example, and the spirits industry, which are dominated by foreign-owned multi-nationals. You can't blame them; they'll make their case for market share.

We can't lose sight of some important facts, though. The growth to date at the LCBO recently has really been in the imported wines. Australian wines, for example, year over year, were up 30%, South Africa 23%, New Zealand 19%, while the growth in VQA wine was only 2%. Their growth is outpacing Ontario VQA wines and therefore seeing a larger market share.

If a foreign jurisdiction were to take up a trade challenge, for example, they would need to prove damages and then they would find some compensation for those damages, if my understanding of trade law is correct. It would be awfully difficult for them to prove that the damages did exist when you see those types of amazing growth rates in the imported wine, who

currently actually dominate the LCBO. I find it hard to believe that Ernest and Julio Gallo or Yellow Tail or whoever, which are currently dominating LCBO shelves, would begrudge some small market access for our VQA stores.

I do appreciate the member's comments, but I think we need to put it in context of the market challenges that currently face our VQA suppliers.

Mr. Gilles Bisson (Timmins-James Bay): Coming from northern Ontario, those last comments from the Consul General—I live the experience on softwood lumber every day. I have to say that I echo the comments made by Mr. Hudak. I think it would be very hard for the Americans or anybody to argue that giving access to the market of our own domestic industry is not going to be a huge challenge to the market of those who import wine into this country.

The second thing—I'm hoping this Hansard will be read by the Consul General, because it's the only way I'll get to talk to her. I've got to be careful of what I say before I start an incident here. I've had the opportunity this fall, as have all of you, to talk to everybody from the poultry industry, the agricultural industry, you name it. They've all been here and it's always the same old story: The Americans are very bad at following the lead that they want other countries to follow when it comes to GATT or NAFTA. They're in favour of us cancelling everything from supply management in poultry and milk and the rest but are not very good at doing what has to be done on their side in order to give others access to their own market. So I find this a little bit hard to take.

I will just say that I wish for a day when Americans live to the degree of the law that other countries do when it comes to trade and don't see themselves as an island unto themselves and basically move into this world. We as Canadians I think have shown the way about how a country can deal with trade in a fair way, not only for its citizens but for the market in general. I just get a little bit tired of that kind of attitude from the United States.

I am totally supportive of what Mr. Hudak is doing here, and I think the Americans will be very hard pressed to make an argument at the GATT or NAFTA under this particular act.

The Vice-Chair: Any further comments or questions? If not, then we'll start voting.

Section 1: Shall section 1 carry? Opposed, if any? That is carried.

Section 2: Any questions or comments? If not, shall section 2 carry? All in favour? Opposed, if any? That is carried.

Section 3: Any questions or comments?

Mr. Bisson: Being a vintner myself, Mr. Hudak, can I sell my wine? I want to let you know that 2005 Muscat and Zinfandel are going to be very good this year, and I'm wondering how I can approach the sale of my wine.

Mr. Hudak: The record will show that as long as Mr. Bisson—he's a strong supporter of the domestic industry and Ontario farmers. VQA wine would have to be the case to get through this act. But the PC caucus will look

forward to sharing some of his future vintages in the caucus room after midnight sittings.

Mr. Bisson: Very good. We'll take you up on that offer.

Mr. Levac: There are no midnight sittings, so we'll have to drink the good wine.

Mr. Bisson: Hang on a second. I make good wine. You just leave me alone.

Mrs. Van Bommel: That's on the record now, you know.

The Vice-Chair: Members, are we ready to vote?

Shall section 3 carry? All in favour? Opposed, if any? That is carried.

Section 4: Comments or questions? Shall section 4 carry? All in favour? Opposed, if any? That is carried.

Shall the title of the bill carry? All in favour? Opposed, if any? That is carried.

Shall Bill 7 carry? All in favour? Opposed, if any? That is also carried.

Shall I report the bill to the House? All in favour? Opposed, if any? That is carried.

There being no other business, the meeting is now adjourned.

The committee adjourned at 1037.

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Second Session, 38th Parliament

Assemblée législative de l'Ontario

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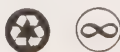
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D'INTÉRÊT PRIVÉ

Wednesday 14 December 2005

Mercredi 14 décembre 2005

The committee met at 1001 in committee room 1.

ELECTION OF CHAIR

The Clerk of the Committee (Ms. Tonia Grannum): Are we ready to start? Honourable members, it is my duty to call upon you to elect a Chair. Are there any nominations?

Mrs. Maria Van Bommel (Lambton-Kent-Middlesex): I would like to nominate Angela—Andrea Horwath. I have a daughter named Angela and a daughter-in-law named Angela. It's a household name. I would like to nominate Andrea Horwath.

The Clerk of the Committee: Are there any further nominations? OK. I declare nominations closed and Ms. Horwath elected as Chair of the standing committee on regulations and private bills.

Mr. Gilles Bisson (Timmins-James Bay): Ask her if she accepts.

The Clerk of the Committee: Do you accept?

Ms. Andrea Horwath (Hamilton East): I accept, with thanks to my nominator.

SIDOFF'S CLEANERS & TAILORS
LIMITED ACT, 2005

Consideration of Bill Pr23, An Act to revive Sidoff's Cleaners & Tailors Limited.

The Chair (Ms. Andrea Horwath): I want to call the meeting to order. The next order of business on the agenda is the consideration of Bill Pr23, An Act to revive Sidoff's Cleaners & Tailors Limited. The sponsor of the bill is Mr. Smith.

Interjection.

The Chair: Sorry; the sponsor of the bill is Mr. Craitor. I'm new at this, and I want to thank you for that.

Mr. Bisson: Mr. Smith goes to Queen's Park.

The Chair: Mr. Smith goes to Queen's Park. Right. Surprise, surprise.

The sponsor of the bill is Kim Craitor, and the counsel to the applicant are Peter Roupas, a student-at-law at Simpson Wigle LLP, barristers and solicitors, and Gokcin Nalsok, associate, Simpson Wigle LLP, barristers and solicitors. Welcome.

I believe it's the opportunity now for the sponsor to make any comments that he might want to make on the bill.

Mr. Kim Craitor (Niagara Falls): Bill Pr23 is pretty straightforward, but I'll just give you a brief summary of it.

Sidoff's Cleaners, just for your information, is well known in Niagara Falls, and I personally know the individuals. The bill is necessary due to the fact that the corporation was dissolved under the business act pursuant to articles of dissolution in December 2004. This dissolution was inadvertent, and the applicant would like to revive the corporation in order to deal with some property that was held in the corporation's name at the time of dissolution. Quite simply, they have some property that they need to deal with, but in order to do that, they have to revive the corporation for that sole purpose only.

As you said, Peter and Gokcin are here. If you have any questions for them, they can certainly answer them. Thank you.

The Chair: Thank you very much. Are there any comments or things that the applicants would like to bring to the attention of the committee?

Mr. Peter Roupas: No. Mr. Craitor summarized it pretty well. The only thing he left out is the reason for the dissolution in the first place: They're ready to retire. They're elderly, and they inadvertently didn't deal with the property.

The Chair: OK. That's great. Thank you very much.

Are there any other interested parties in the audience that would like to make any comments?

Seeing none—

Interjection.

The Chair: I'm sorry. Again, you'll have to bear with me: On my agenda, it indicates that I should first ask if there are any comments from the government, so perhaps I should do that, if you don't mind, Mr. Martiniuk. If that's all right, I'd like to do that, and then I'll get to the other members.

Mrs. Van Bommel.

Mrs. Van Bommel: Thank you, Chair. Certainly this has been discussed in three lead ministries. The public guardian and trustee has confirmed that Sidoff's Cleaners and Tailors is in good standing and has no concerns with their corporate revival. The corporations tax branch of

the Ministry of Finance has also reviewed the file and has consented to the application. The Ministry of Government Services confirmed that they have no concerns with this issue. So the government position is that we are not opposed to the revival of this corporation.

Mr. Bisson: I'm just curious: How did this happen? How was that oversight? Was it just an error by the lawyers, or what?

Mr. Roupas: They did it by themselves, originally—

Mr. Bisson: So they have building and property that they need now to liquidate as they close down their business into retirement. That's basically the issue?

Miss Gokcin Nalsok: Yes.

Mr. Bisson: That's fine.

Mr. Gerry Martiniuk (Cambridge): Mr. Roupas, I'm familiar with the degree of LLB; I am not familiar with the degree of LLP. Could you explain that to me?

Mr. Roupas: Actually, it means limited liability partnership, so it's part of the law firm.

Mr. Martiniuk: Thank you.

The Chair: Are there any other comments from committee members? Are the committee members ready to vote on this? All right, then. You have the bill in front of you, I believe, so we'll go section by section.

Shall section 1 carry? Any opposed? That's carried.

Shall section 2 carry? Carried? Any opposed? That's carried.

Shall section 3 carry? That's carried.

Shall the preamble carry? That's carried as well.

Shall the title carry? That's carried.

Shall I report the bill to the House? All right, then. That's been done. The bill will be reported to the House.

I want to thank the sponsor and the applicant for bringing this forward and thank the members of committee for supporting this bill. Thank you for having such an easy go the first time around. I appreciate that and look forward to seeing you again.

I'll adjourn the meeting at this point in time and hope everyone has a great day.

The committee adjourned at 1008.

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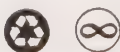
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Wednesday 10 May 2006

Mercredi 10 mai 2006

*The committee met at 1002 in room 1.*GOLDEN DREAMS HOME
AND DECOR LTD. ACT, 2006

Consideration of Bill Pr19, An Act to revive Golden Dreams Home and Decor Ltd.

The Vice-Chair (Mr. Tony C. Wong): Good morning, ladies and gentlemen. This is the standing committee on regulations and private bills. I call the meeting to order.

The first order of business is Bill Pr19, An Act to revive Golden Dreams Home and Decor Ltd. The sponsor is MPP Shafiq Qaadri and the applicant is Helen Myrna Dales. Would the sponsor and the applicant please come forward? MPP Qaadri, would you like to make some comments?

Mr. Shafiq Qaadri (Etobicoke North): First of all, thank you for this opportunity to present this particular bill in front of the standing committee on regulations and private bills. It is Bill Pr19, An Act to revive Golden Dreams Home and Decor. I'm joined, as you can see, by fellow presenters Helen Myrna Dales and legal counsel David A. Stone, who will be the lead presenter.

The Vice-Chair: Welcome.

Mr. David Stone: Thank you. We're here to revive a corporation. What happened was that in 1994, Ms. Dales, looking to incorporate a company to buy and sell real estate, did that very thing, incorporated a company—

Interjection.

Mr. Stone: Sorry. In 1998, she incorporated Golden Dreams; I'll refer to it as Golden Dreams so I don't have to go through the whole name. Her intent was to buy and sell real estate. By 2004, its only asset was the home she lived in, 109 Lakeshore Drive. To make a long story short, she believed it was becoming too cumbersome to file tax returns for the corporation and for herself personally, so she decided on her own to file articles of dissolution at the company's branch in Toronto. The problem with filing articles of dissolution in her case was that if the corporation hadn't disposed of all its property prior to the articles being filed, any property, and in this case it was her home, would escheat to the crown. She wasn't aware of that. The only reason she did this was to make her life simple. Golden Dreams really did turn out to be a nightmare. She wasn't even aware of the problem

until she phoned my office and I advised her, "Yes, you have a problem with a forfeiture." Unfortunately, under the Ontario Business Corporations Act, the only remedy is to apply for a private bill to be passed. If there are any questions, I'd be happy to answer, or Ms. Dales as well.

The Vice-Chair: Thank you, Mr. Stone. Any comments or questions from members? The parliamentary assistant.

Mr. Mario Sergio (York West): I want to commend the applicant for bringing forth the position on the bill, and also compliment the minister and member for Etobicoke Centre, Donna Cansfield, as well as the member for Etobicoke North for being here in support of the applicant. The government has no problem with the content of the bill as presented, therefore I will support it.

The Vice Chair: Any further questions or comments from members? Are there any interested parties who would like to speak to this matter? Seeing none, are members ready to vote?

We will start with section 1. Shall section 1 carry? All in favour? Opposed, if any? That is carried.

Shall section 2 carry? All in favour? Opposed, if any? That's carried.

Shall section 3 carry? All in favour? Opposed, if any? That is carried.

Shall the preamble carry? All in favour? Opposed, if any? That is carried.

Shall the title carry? All in favour? Opposed, if any? That's carried.

Shall the bill carry? All in favour? Opposed, if any? That is carried.

Shall I report the bill to the House? All in favour? Opposed, if any? That is carried.

CITY OF LONDON ACT, 2006

Consideration of Bill Pr24, An Act respecting the City of London.

The Vice Chair: The next order of business is Bill Pr 24, An Act respecting the city of London. The sponsor is MPP Khalil Ramal and the applicant is James P. Barber, city solicitor. Please come forward. MPP Ramal, would you like to make comments?

Mr. Khalil Ramal (London-Fanshawe): Yes. First, I want to welcome the representatives of the city of London: Mr. Grant Hopcroft, responsible for inter-

governmental affairs for the city of London, legal counsel James Barber, and Lisa Pasternak. Welcome to Queen's Park.

I'm honoured and privileged to be given the chance to sponsor the City of London Act, Bill Pr24. This is a very important bill for the city of London. I want to thank the city of London for giving me the chance to serve the city. The people of London are looking forward to seeing passage of the bill. It means a lot to the people of London, stability, specifying how many councillors for each ward.

I know that whatever we do in our lives, we're not going to satisfy all the people. So many people are frustrated by the way the OMB has dealt with the issue of the city of London for a long time. We have with us here today—we're going to hear from him—Dr. Andrew Sancton, who has voiced his concern many times through the media and to the city of London. In the end, we are hopefully not going to penalize the city of London for a mistake made by a certain body in the province.

I'm looking forward to your support. I ask legal counsel to speak, and Mr. Hopcroft, if he has any comments.

The Vice-Chair: Thank you, MPP Ramal. Would the applicant like to make comments?

Mr. James Barber: Yes. Thank you for hearing us this morning. The bill before you is proposed legislation which would provide for one councillor per ward in each of 14 wards for the 2006 municipal election in London, Ontario. The reason for the legislation is that Ontario regulation 561/93, which was part of general legislation—but an act that dealt only with the city of London provided for two councillors per ward. That was carried forward by a variety of pieces of legislation, including amendments to the Municipal Act, the new Municipal Act, and the Interpretation Act.

1010

The Ontario Municipal Board held a hearing and re-divided the city into 14 wards from seven wards in 2005. It issued its order on December 30, 2005. Unfortunately, because of the timing of the issuance of that order, no change to the number of councillors per ward was possible. The city, in response to the OMB's decision, sought judicial intervention. The court, having considered the matter, determined that the board had not ordered a reduction in the number of councillors from two per ward to one per ward.

Without the legislation before you, London city council will increase in size in terms of the number of councillors from 14 to 28, and no one in the city of London wants that to occur. The legislation is necessary so that for the 2006 election, the number of councillors per ward is one. That's the reason for the legislation, at its simplest.

The Vice-Chair: Thank you, Mr. Barber. Before I invite the parliamentary assistant to speak, does any other member have comments or questions? If not, we go to the parliamentary assistant.

Mr. Sergio: The applicant has very clearly indicated the reasons they are here this morning and why the bill is

being sponsored by the local member from London—Fanshawe. I can see from the material that he has had some considerable input on the presentation of the bill.

We, as a government, don't have any concern with it. We understand that it's a necessity for the council of the city of London to conduct their business in a much more straightforward manner. We congratulate them and wish them well in their municipal election. We have no position to dispute.

The Vice-Chair: Thank you, Mr. Sergio. Do we have any other interested parties who would like to speak to this matter? Yes, sir. Please come forward. Please identify yourself.

Dr. Andrew Sancton: My name is Andrew Sancton. I'm a citizen and ratepayer of the city of London. It's important to know that during the OMB hearing that gave rise to this private bill, I acted as an expert witness on behalf of the city of London. However, my paid service for the city of London on this matter ended months ago, and I've consulted no one associated with the corporation of the city of London or anyone else about my decision to come here today and make this presentation.

Neither you nor I are concerned with the arguments made in the past about how many wards there are to be in the city of London. The problem is how many councillors are to be elected in each of the wards, as Mr. Barber explained.

I am here because I am outraged, really outraged—and the more I hear about this, the angrier I get—that the OMB has handled this issue so incompetently. I'm not willing to remain silent while the Ontario Legislature is asked to clean up such an inexcusable mess. Something must be done other than pretending that the OMB made some minor technical error that should be forgotten by quickly passing the bill that is before you.

Many people in London believe, despite clear statements to the contrary by Mr. Justice McDermott, that the OMB ordered that London is to have 14 wards, each represented by one councillor. That's the common view in London, that that's what the OMB decided. If this is the case—and I don't believe it is; I agree with Mr. Barber on that—then there is no reason to go through this charade of discussing this particular piece of legislation, because it would be redundant if that view were correct. In fact, of course, the OMB ordered that London is to have 14 wards and left it up to the council to decide how many councillors there were to be in each ward. The order, as Mr. Barber stated, was dated December 30, 2005. As of January 1, 2006, the city council, as I understand it—I'm not a lawyer—had no legal authority to change the number of councillors per ward. Therefore, as things stand now, there are to be 28 councillors elected in 2006. In the absence of legislation to the contrary, Londoners are supposed to elect these 28 councillors. Again, as Mr. Barber said, this is an outcome that nobody advocated. In my view, then, the OMB was acting just recklessly and irresponsibly in issuing the order they did at the time they did.

If you believe, as I do, that the OMB has completely botched this process, then I believe you should turn this

matter over to the Minister of Municipal Affairs so he can decide what to do. One obvious option for him is to introduce government legislation to ensure that Ontario's fifth-largest city—we're talking about at least 350,000 residents of this city; it's not very private, in my view—so the minister can look at the council membership and so the government of Ontario can take actions that are appropriate in these very complex circumstances. But even before doing that, in my view, the government should determine what went wrong at the OMB and take steps to ensure that it will not happen again.

If the kind of action I propose is not possible, then ultimately, I believe you should approve this bill. But this outrageous action of the OMB, in my view, cannot go unnoticed. Even tenured university professors such as myself get called to account by someone if they make major mistakes or if they do something that everybody considers to be wrong. We have a case here where the OMB acted wrongly, in the sense that it did something that nobody wanted, but apparently they did not act illegally.

You are being asked to fix this. I would say that in a relatively quiet, straightforward kind of way, you're being asked to fix this. What will the OMB learn from this? The lesson they will learn is that it's okay to leave a mess because private legislation can always fix it. If that's the message you want to send to the OMB, then okay, go ahead and vote for this bill. But I think there's a better course of action, and that is to turn it over to the Minister of Municipal Affairs to sort out.

The Vice-Chair: Thank you, Mr. Sancton. Any questions or comments for Mr. Sancton from members?

Mr. Ramal: I want to thank Dr. Sancton for his presentation. I understand his frustrations. I had several dialogues with him about this issue. Hopefully, you agree with me that the city of London cannot absorb, cannot handle 28 councillors versus 14, which is normal procedure in the city of London.

We understand and share his frustrations. We acknowledge the mistake made by the OMB in the past, not specifying how many councillors for each ward. But we cannot penalize the city of London and the taxpayers of London for the mistake or for something done by the OMB. That's why we are here today trying to fix whatever was not fixed in the past. I was talking to the minister yesterday about this issue, about bringing in a ministerial bill versus a private bill, and he assured me that there's no difference. A bill passed by this committee will have the same weight as a bill passed by the minister.

Therefore, I think there is no need for a ministerial bill, which, as the Chair and the committee know very well, takes a long time. The city of London and other cities across the province are going to an election very soon. It's very important for the people of London, the city councillors and the candidates to know how many councillors per ward as soon as possible in order for clarification and to give them a chance to prepare for the election. I share the concern, but hopefully Dr. Sancton

will agree with us that we cannot penalize the taxpayers of London for something that happened beyond their capacity and that wasn't intended.

The Vice-Chair: Any response, Mr. Sancton?

Dr. Sancton: I appreciate the goodwill of Mr. Ramal. Indeed we did have a conversation about this a while ago, and I certainly believe he is doing everything he can to act in the best interests of the city of London, as he sees it. I think we're all doing that. We all actually have the same objective, which is not to have a 28-member council.

I'm certainly heartened by Mr. Ramal's statement that the minister says that the OMB made a mistake. I would be much more reassured if we could have some formal statement from the minister to that effect. As I said, most of the people in London who follow this—and it's a difficult issue to follow—believe that the OMB did their thing and that there might have been a little minor error here. But it's not properly understood, what I believe to be a very serious mistake. We have the OMB to sort these matters out, not to make them more complicated.

1020

If the minister could undertake to do that and make sure that the people of London understand that the Minister of Municipal Affairs says that that's what the OMB ruling was, that the city of London's solicitor is not being overcautious in asking for this bill, and that he has supported this because he thinks it's the only way to get London out of this mess, then I think that would be a step in the right direction.

Mr. Gerry Martiniuk (Cambridge): I don't believe it's the jurisdiction of this committee to assess blame; we're not concerned with that. We have a bill before us that corrects a regrettable error that was made in the past. My caucus certainly supports the bill that's before us. I'm not in a position to assess blame.

The Vice-Chair: Any further comments or questions?

Mr. Gilles Bisson (Timmins-James Bay): No, it's pretty straightforward.

The Vice-Chair: Thank you, Mr. Sancton.

Are members ready to vote? Shall section 1 carry?

Mr. Bisson: Recorded vote, please.

The Vice-Chair: Okay, a recorded vote.

Ayes

Bisson, Levac, Martiniuk, Ramal, Sergio.

The Vice-Chair: That is carried unanimously. Shall section 2 carry?

Ayes

Levac, Martiniuk, Ramal, Sergio.

The Vice-Chair: That is carried. Shall section 3 carry?

Ayes

Levac, Martiniuk, Ramal, Sergio.

The Vice-Chair: That is carried.
Shall section 4 carry?

Ayes

Levac, Martiniuk, Ramal, Sergio.

The Vice-Chair: That is carried.
Shall the preamble carry?

Ayes

Levac, Martiniuk, Ramal, Sergio.

The Vice-Chair: That is carried.
Shall the title carry?

Ayes

Levac, Martiniuk, Ramal, Sergio.

The Vice-Chair: That is carried.
Shall the bill carry?

Ayes

Levac, Martiniuk, Ramal, Sergio.

The Vice-Chair: Shall I report the bill to the House?
All in favour? Opposed? That is carried.

SISTERS OF ST. JOSEPH OF HAMILTON ACT, 2006

Consideration of Bill Pr25, An Act respecting The Sisters of St. Joseph of Hamilton.

The Vice-Chair: The next order of business is Bill Pr25, An Act respecting The Sisters of St. Joseph of Hamilton. The sponsor is MPP Dave Levac and the applicants are Sister Anderson and Russell G. Gibson, legal counsel. Welcome. MPP Levac, would you like to make comments?

Mr. Dave Levac (Brant): For the sake of clarity, on my immediate right is Russell, and then Sister Anne.

I'm very pleased and honoured to sponsor the bill. The bill is necessary to consolidate various acts that have been given to the Sisters of St. Joseph. I believe the last revision was 1938. We definitely need to consolidate legally what is already being provided by the good sisters now. This bill is basically housekeeping that provides us with an opportunity to have the good works of the sisters legal, on the technical side. I suggest to the committee that by passing this legislation, it provides us with an opportunity probably equal to about 17 novenas and we're all going to be very blessed as a result.

Anyway, I'll take this moment to pass it over to Russell. Thank you very much, Mr. Chairman.

The Vice-Chair: Thank you. Would the applicant like to make comments?

Mr. Russell Gibson: Good morning, and thank you for this opportunity.

Before I speak about the rationale of the bill, I'd like to first give you a little background. I think it's important to know that the Sisters of St. Joseph is a Roman Catholic religious congregation. It was founded at Le Puy, France, around 1650 by Father Jean-Pierre Medaille and six women who wished to bring the love of God to people in need. In 1836, several sisters responded to a request of the bishop of St. Louis, Missouri, and came to North America. The first sisters in Canada came to Toronto from Philadelphia in 1851, and by April 1852, three sisters from this group went to Hamilton and began working in schools, caring for the sick, the aged and orphans.

The corporation known as the Sisters of St. Joseph of Hamilton was incorporated on December 30, 1879. Other statutes were enacted in 1880, 1901, 1932 and 1938.

In 1890, the Sisters of St. Joseph of Hamilton established St. Joseph's Hospital to respond to the needs of immigrants, orphans, the poor and the dispossessed of the Hamilton-Wentworth area. They are still involved today in its governance and administration.

Today, the sisters are engaged in the ministries of healing, education and pastoral services and are recognized as a registered charity. The sisters also assist in the operation of St. Joseph's Health System, which was established in 1991. Its goal is to meet the challenges of the changing environment for the delivery of health and social services and is today one of the largest corporations in Canada devoted to health care. Its member organizations are known for genuine compassion and caring. The St. Joseph's Health System takes pride in a system-wide commitment to caring for the whole person: body, mind and spirit.

The reason for the bill is due to the fact that the statutes I referred to earlier restrict the powers of the corporation to an extent that is not relevant to modern corporations incorporated without share capital, and it is advisable to have these restrictions that have been placed upon the corporation removed. These amendments would also avoid any uncertainty in the future about the powers of the corporation and clarify that any amendments to the corporation would no longer need to be done by private bill.

The preamble to the bill provides an historical summary, referring to the date of incorporation, as well as the date that the corporation changed its name.

The members of the corporation, as proposed, would be determined in accordance with its bylaws. The Mother Superior would be a member of the corporation.

The objects are to establish, equip, maintain and operate a religious institution in the Roman Catholic diocese of Hamilton and elsewhere for the relief of the poor, the sick and other persons in need and to construct, equip, maintain and operate facilities for the institution to carry on its educational, hospital and other charitable works. The bill also provides for the objects not to be changed by supplementary letters patent unless the board of

directors obtains a prior written consent of the Mother Superior. The corporation shall have the rights of a natural person, which subsumes all the particular corporate powers that were listed in the predecessor acts.

With respect to the board of directors, the affairs of the corporation, it is proposed, would be conducted and managed by its board of directors. The board would be composed of the Mother Superior and other persons as specified by the bylaws. The Mother Superior, it is proposed, shall be the president of the corporation.

In summary, I urge the committee and the Legislature to support this private bill to modernize the charter of the Sisters of St. Joseph of Hamilton. It will allow the corporation to better adapt and respond to the changing realities of their charitable work. Thank you very much.

1030

The Vice-Chair: Thank you. Are there any interested parties who would like to speak to this matter? Seeing none, I would now like to invite members of the committee to make comments or ask questions.

Mr. Sergio: Some concern was expressed about the drafting of the bill by some of the agencies and the Ministry of Government Services, mainly with the clarity of the bill as drafted. You have in front of you a number of amendments into which the member for Brant, Mr. Levac, apparently had considerable input in improving the content of the bill and clarifying some of the concerns that various agencies and the ministry had. Therefore, if the committee wishes to support the various amendments, we have no problem in recommending approval of the bill.

I would invite the member from Brant to propose to the committee the various amendments that, with the applicants, were produced.

The Vice-Chair: Before we proceed with the individual sections, I want to ask members if there are any further questions or comments.

Mr. Martiniuk: I need some assistance. I've looked at the proposed amendments, in particular the amendment that section 2 shall be stricken out. If you take out section 2, I really can't see any explicit instructions in the bill that deem this to be a corporation without share capital. By inference, in section 3, it says the corporation is composed of its members. That could be construed that there is an inference that it's non-share capital, but it doesn't say that specifically, and I don't know whether it should. There's nothing in this act without section 2 that says "This corporation is deemed to exist." It's all by inference. It certainly doesn't refer in any section to the Corporations Act any longer, I believe, because the only reference was in section 2, and I don't know whether there are other powers in the Corporations Act that may—I'm trying to be of assistance. I'm not looking for fault. My concern is that with the loss of section 2 of the proposed Bill Pr25, by the first amendment, we may have difficulty in the proper construction of this corporation and the powers you would want. Perhaps you could address that.

Mr. Gibson: I think it would be preferable to, somewhere in the bill, have it clarified that the corporation is an existing corporation under the Corporations Act. It was created under a predecessor statute and is currently subsumed under the Corporations Act. I guess that is the reason it doesn't refer to it being a corporation per se, because it already is a corporation under the statute. In terms of changing that, we're not asking to have that status changed. We're simply asking that the statutes that amended the corporation in 1880, 1901, 1932 and 1938, which had the effect of restricting to some extent the powers of the corporation, be repealed and that, going forward, the corporation, which is by this bill assumed to continue to have the status of a corporation under the Corporations Act, will simply continue as such.

Mr. Martiniuk: I understand that. Then why is section 2 being removed? That, in effect, says exactly that, that it's going to be continued, but they're taking this section out. I want to know the reason for that.

Mr. Gibson: I can tell you that the applicant proposed that section for clarity, and it was suggested by one of the ministries that it be removed, essentially because it was redundant.

The Vice-Chair: Our legal counsel would like to speak.

Ms. Laura Hopkins: The bill doesn't change the nature or status of the corporation. Section 2 is not necessary in law. The corporation is and remains a non-share capital corporation. It's now governed by the Corporations Act and will continue to be governed by the Corporations Act. The Ministry of Government Services considered that section 2 was redundant, and Ontario's legislative drafting conventions suggest that bills should not contain redundant provisions. That's the reason that the amendment is being recommended. If section 2 is removed from the bill, the corporation will continue to be a non-share capital corporation and will continue to be governed by the Corporations Act.

Mr. Martiniuk: You're saying that it's in effect a recital of existing facts and is unnecessary.

Ms. Hopkins: Yes.

The Vice-Chair: Members, I've been advised by the clerk that the right procedure to deal with this is not to accept the amendment but to vote against section 2 when it comes forward. Before I start with the voting, do we have any further comments or questions? Okay.

Shall section 1 carry? All in favour? Opposed, if any? That is carried.

Shall section 2 carry? Mr. Levac.

Mr. Levac: Mr. Chair, I move that section 2 of the bill be struck out, but if it is out of order, I ask that the members vote the section down.

The Vice-Chair: Any further comments? Shall section 2 carry? All in favour? Opposed? That is defeated. Section 2 does not carry.

Shall section 3 carry? All in favour? Opposed, if any? That is carried.

Section 4: Mr. Levac.

Mr. Levac: I move that paragraph 1 of the bill be amended by striking out “for the reception and instruction of orphans and”.

The Vice-Chair: Any comments or questions on the amendment? Shall the amendment carry? All in favour? Opposed, if any? That is carried.

Mr. Martiniuk: Mr. Chair, I have a question. What happens to the numbering in the bill? Perhaps I could direct it to legal counsel.

Ms. Hopkins: When the bill is reprinted, the numbering will be corrected editorially.

Mr. Martiniuk: Thank you.

The Vice-Chair: Shall section 4, as amended, carry?

Mr. Levac: Just a minute.

The Vice-Chair: Do you have another amendment?

Mr. Levac: Yes. I move that paragraphs 2 and 4 of the bill be struck out.

The Vice-Chair: Any questions or comments? Shall the amendment carry? All in favour? Opposed, if any? That is carried.

Mr. Levac: Another amendment: I move that section 4 of the bill be amended by adding the following subsection:

“Prerequisite to changes

“(2) The objects of the corporation cannot be changed by supplementary letters patent unless the board of directors obtains the prior written consent of the Mother Superior to the changes.”

The Vice-Chair: Any questions or comments? Shall the amendment carry? All in favour? Opposed, if any? That is carried.

Shall section 4, as amended, carry? All in favour? Opposed, if any? That is carried.

Shall section 5 carry? All in favour? Opposed, if any? That is carried.

Shall section 6 carry? All in favour? Opposed, if any? That is carried.

Shall section 7 carry? All in favour? Opposed, if any? That is carried.

Shall section 8 carry? All in favour? Opposed, if any? That is carried.

Shall section 9 carry? All in favour? Opposed, if any? That is carried.

Shall the preamble carry? All in favour? Opposed, if any? That is carried.

Shall the title carry? All in favour? Opposed, if any? That is carried.

Shall the bill, as amended, carry? All in favour? Opposed, if any? That is carried.

Interjection.

The Vice-Chair: My apologies. There is also a section 10. Shall section 10 carry? All in favour? Opposed, if any? That is carried.

Shall the preamble carry? All in favour? Opposed, if any? That is carried.

Shall the bill, as amended, carry? All in favour? Opposed, if any? That is carried.

Shall I report the bill, as amended, to the House? All in favour? Opposed, if any? That is carried.

Thank you very much, members of the public and members of committee.

Mr. Levac: We’ve just done a novena.

The Vice-Chair: Congratulations. The meeting is adjourned.

The committee adjourned at 1041.

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Mercredi 7 juin 2006

Standing committee on
regulations and private bills

Comité permanent des
règlements et des projets
de loi d'intérêt privé



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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLS

Wednesday 7 June 2006

COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ

Mercredi 7 juin 2006

*The committee met at 1002 in committee room 1.*RONALD MCDONALD HOUSE
(HAMILTON) ACT, 2006

Consideration of Bill Pr18, An Act respecting Ronald McDonald House (Hamilton).

The Chair (Ms. Andrea Horwath): Good morning, everyone, and welcome to the standing committee on regulations and private bills. I'd like to call the meeting to order and get right down to the calling of the first order of business, which is Bill Pr18, An Act respecting Ronald McDonald House (Hamilton).

The sponsor of the bill is Mr. Craitor, subbing in for Ms. Marsales. Welcome. I'm wondering if the sponsor wants to introduce the applicant and begin the process.

Mr. Kim Craitor (Niagara Falls): Thank you very much, Chair. I just want it on the record that the sponsor, Judy Marsales, initially, was not able to attend because of an unexpected conflict, so I'm proud and more than pleased to sponsor the bill.

I have with me Russell Gibson. Russell is from the firm of Vincent Dagenais Gibson, and he'll be assisting with the presentation on this bill.

The Chair: Excellent. Then, as sponsor, do you have any comments you'd like to make yourself, Mr. Craitor?

Mr. Craitor: I'll just say, in a nutshell, what we've got is a situation. Everyone is familiar across Ontario, probably across Canada, with Ronald McDonald House. We have a situation here in Hamilton where this house is on land with a hospital, but for municipal assessment purposes it is taxed, so it's obligated to pay property taxes and education taxes. The purpose of this bill is to exempt them from doing so. The bill is asking not only for that, but that it would take effect from the beginning of January 2005. The bill says that the specific property would be exempt from taxation for municipal and school purposes. That's the request that's before this committee today.

The Chair: Did the applicant want to make any comments?

Mr. Russell Gibson: I would, Madam Chair. Thank you, Mr. Craitor, and thank you to the committee for considering this private bill.

I'd like to make a few comments about Ronald McDonald House, if I may. Ronald McDonald House in

Hamilton is a 15-room facility. It was opened in April 1993 and is located next to McMaster Children's Hospital. It is owned and operated by a registered charity called Kids Care Oncology, Central West Ontario.

It offers a safe and economical environment for families of critically ill children who are receiving care at the McMaster Children's Hospital. Each family enjoys a private, uniquely designed room with ensuite. They have access to a large, fully equipped kitchen and no-charge laundry facilities. Lounges and playrooms provide an environment where children and family are able to meet and share their concerns and feelings with others in similar situations.

It serves communities within a wide radius, including Brant, Niagara, Waterloo, Wellington, Dufferin and Halton, and it relies on more than 150 volunteers to perform the many services that the house offers to families.

It costs the charity about \$75 per night to accommodate one family. However, families are asked to contribute only \$10 per night.

Ronald McDonald House Charities, the charity associated with the McDonald's restaurant chain, is a long-term committed partner of the Ronald McDonald House in Hamilton. Ronald McDonald House Charities guarantees every Ronald McDonald House in Canada a minimum contribution of \$100,000 a year to assist in operating costs and funds 50% of major renovations and capital improvements.

Ronald McDonald House Charities is a registered charity, and its objective is to help children in need. Approximately 40% of funds distributed by Ronald McDonald House Charities go to Ronald McDonald Houses throughout Canada, with the remaining funds going to other charities.

The amount provided to Ronald McDonald House in Hamilton by Ronald McDonald House Charities represents 20% of their operating costs. The remaining amount is raised through individual and corporate donations.

Ronald McDonald House Hamilton finds itself in a difficult position with respect to municipal taxation. It operates facilities that are assessed significant values for the purposes of municipal taxation. The services they offer, in our view, are of such significance from a public policy perspective that they ought to be placed in a position analogous to public hospitals for municipal

taxation purposes. However, unlike hospitals, they are not exempt from taxation.

This bill authorizes the city of Hamilton to exempt specified property from taxes for municipal purposes, other than local improvement rates. If the city passes the tax exemption bylaw, the bill will provide that the property is also exempt from taxes for education purposes for as long as the bylaw is in effect. We also have a letter of support from the city of Hamilton.

I should mention that similar legislation was enacted last December for Ronald McDonald House in London and that other Ronald McDonald Houses across Ontario benefit from a similar tax exemption.

I urge the committee to approve this very important and worthwhile private bill.

The Chair: Thank you, Mr. Gibson. I'm wondering if there are any other parties that are interested in making comments on this bill from the public. No one here? Okay. Does the parliamentary assistant have any comments on the bill?

Mr. Mario Sergio (York West): Yes, Madam Chair. First of all, I would like to congratulate the local member, Judy Marsales, the member for Hamilton West, as well as Mr. Craitor for filling in for Ms. Marsales in support of the proposed bill.

As the applicant has said, similar legislation indeed already exists. As well, this went through the Ministry of Finance and the Ministry of Municipal Affairs and Housing, and they both have shown no concern with the bill. Therefore, I'm very pleased to lend our support to the bill itself.

The Chair: Thank you very much, Mr. Sergio. Mr. Levac.

Mr. Dave Levac (Brant): As much as echoing the parliamentary assistant—and I thank him for the words on behalf of the government—on a personal note, it serves us very well in Brant and Brantford, and I want to comment in a very positive way on the support that our community has received from Ronald McDonald House in Hamilton. I deeply appreciate the efforts of all the staff and Ronald McDonald House itself. Thank you so much.

The Chair: Are there any other comments from committee members?

Mr. Gerry Martiniuk (Cambridge): Yes, thanks, Chair. I don't have a copy of the bill and I'd like one; I came in late, and I apologize. In whose name is the property registered?

Mr. Gibson: The property is on hospital lands, I believe.

Mr. Martiniuk: Which hospital?

The Chair: Hamilton Health Sciences.

1010

Mr. Gibson: I would have to check the name of the specific corporation. Pardon me just for a moment. I can possibly check that here and determine who the owner is.

I would have to check to get the specific name of the corporation in my file I have here. However, there would be a liability for taxes under section 3 of the Assessment Act. The test turns not only on ownership but the use of

the lands and whether the party using the lands is one that qualifies for an exemption. In this particular case, it does not, and the corporation in question, which is the operator, which is Ronald McDonald House Hamilton, is known by its incorporated name as Kids Care Oncology, Central West Ontario Corp. It's an Ontario corporation incorporated on May 28, 1991, and it is a registered charity pursuant to the provisions of the federal Income Tax Act.

Mr. Martiniuk: I'm in favour of what you're trying to do. I'm just trying to understand it, if you'd bear with me for a moment. So we have a licensee or a tenant on property which would ordinarily be exempt because it's owned by a hospital, but because of this particular use it attracts—or at least the legal opinions are that it attracts the Assessment Act?

Mr. Gibson: Our first recourse was to discuss the matter, obviously, with the Municipal Property Assessment Corp., MPAC, and it was their position that the property, namely the operator of the facility on the property, did not qualify for an exemption under section 3 of the Assessment Act. The applicant has been paying municipal taxes on the property to date.

The Chair: Mr. Craitor, you had some clarification?

Mr. Craitor: Yes. Let me just read in for the record, and this may assist the member in respect to his question. This is in the information that was provided to the committee. It says, "And whereas the applicant represents that the corporation was incorporated on or about the 28th day of May, 1991, pursuant to the Corporations Act (Ontario) and is registered as a charity pursuant to the Income Tax Act (Canada). The applicant also represents that it has a freehold interest in lands and premises described in the first schedule attached hereto, which is known municipally as 1510 Main Street West, Hamilton...." That's just to clarify that the applicant has a freehold interest in the land and so is obligated to pay, in relation to your question, the municipal and education taxes.

The Chair: Thank you, Mr. Craitor. Are there any other questions or comments that committee members might have?

Mr. Khalil Ramal (London-Fanshawe): I believe, just also for the record, we passed a similar bill last December. I think, Mr. Martiniuk, we were here. It was a bill sponsored on behalf of my colleague Deb Matthews. I think they served a similar cause. They serve a great cause and there's no doubt about their intention and their service to the community. That's why I'm supporting the bill.

The Chair: Any further comments? Are the members ready to vote then on this bill?

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall section 4 carry? Carried.

Shall section 5 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

Thank you very much. The bill will be reported to the House and the matter will be dealt with.

Mr. Gibson: Thank you very much.

TALPIOT COLLEGE ACT, 2006

Consideration of Bill Pr26, An Act respecting Talpiot College.

The Chair: Our second order of business is Bill Pr26, An Act respecting Talpiot College. I believe we have some guests here for this bill as well. The sponsor of the bill is Mr. Zimmer. Welcome, Mr. Zimmer. I don't know if you have some initial comments to make. With you, I believe you have Rabbi Dr. Yosef Posen?

Mr. David Zimmer (Willowdale): Yes. Rabbi Dr. Yosef Posen is the academic dean of the college.

The Chair: Excellent. Welcome. Mr. Zimmer, if you want to make a few initial comments, you're welcome to do so.

Mr. Zimmer: You have a copy of the bill before you. The college has been operating since 1973 as a women's Jewish college. The degrees that they have been granting are found in schedule 1 of the bill: bachelors' degrees, masters' degrees and doctorates in various Jewish religious studies and Judaic law studies.

The Talpiot College Act, 2000, set it up as an institution, but it was just set up for women. Essentially, there's a need, and they've demonstrated a capacity, for studies to include men now, so the college wants to move from a women's college to a coed college. The only changes in this bill from the 2000 act are in the preamble, where there's a reference to "post-secondary education in Jewish and general studies to women and men," and then in clause 8(c) it adds "and courses of study offered to women and to men," and again in (g), "academic achievement to women and men." Other than that, the bill mirrors the legislation of 2000.

I'm going to ask Rabbi Dr. Yosef Posen just to give you some background information on the college from his perspective.

Rabbi Yosef Posen: Thank you very much. Just a few words to explain the historical background to the college to understand why we're coming to this new piece of legislation or this amendment to the existing legislation.

Really, the starting point of this whole story is that in 1960 Beth Jacob High School for Girls was founded for the postwar Jewish community in Toronto. In 1973, as Mr. Zimmer mentioned, a post-high-school seminary branch was opened for religious studies. Eventually in 1996, this expanded into programming in secular subjects as well as religious subjects, providing specifically, at that point in time, for religious Jewish women of Toronto.

In 1977, an application was made to the Ontario Ministry of Education and Training, universities branch, for a charter for Talpiot College. As Mr. Zimmer

mentioned, the charter was approved and royal assent was given in June 2000.

In the last number of years we've been offering programming to Jewish women, and there's been a demand now for some of this programming, specifically a bachelor's in Jewish education, a bachelor's in Jewish family and community services and Judaic studies, to be available to the Jewish men of the community. That's why this application is being made, simply to take the same powers and degrees we offered in the past and offer them to the Jewish male community of Toronto.

The Chair: Thank you very much. Are there any members of the public here, any other interested parties who wanted to make any comments?

Seeing none, I turn to the parliamentary assistant and ask if there are any comments from the government.

Mr. Sergio: Indeed, the bill has been reviewed very thoroughly by the Ministry of Training, Colleges and Universities and they have shown no concern with respect to the bill.

I would like to compliment the member from Willowdale, because I know he was very deeply involved with making sure that this bill was coming to us in the proper way so that no time would be wasted. I would compliment the member for following through with this bill. Therefore, I would like to offer my support and that of the ministry as well.

The Chair: Are there any questions or comments?

Mr. Levac: Just a simple question: As an educator, I'm curious about curriculum. Will you see any changes in the curriculum as a result of going coed? Is there an idea of what the studies are that will be offered to men as well?

Rabbi Posen: Essentially the same curriculum will be offered, but there will be some courses that will specifically have been available to men in yeshiva environments, which has been a male Jewish studies environment at the post-secondary level, that we now would cover within our curriculum, but within the degree structures we have existing at the present time.

Mr. Levac: That's exciting.

Mr. Tony C. Wong (Markham): To the Rabbi, out of curiosity, I just want to know whether there would be any difference in terms of qualifications of admission that you may be anticipating?

Rabbi Posen: Qualifications with respect to—I'm sorry?

Mr. Wong: Admission.

Rabbi Posen: No. Really the same admission as exists now would apply in the future.

Mr. Wong: And what proportions of men and women will you be expecting in a few years' time? Is it going to be roughly 50-50?

Rabbi Posen: It's hard to predict at the present time. I don't know, but I would anticipate 50-50 in the future, yes.

Mr. Wong: And that's the experience of other similar colleges in Ontario?

Rabbi Posen: Yes, that is. In Ontario, there are no other colleges which offer this type of programming, but in the States, in New York City, there are other programs of this sort.

The Chair: All right, then. Any further comments or questions from the committee members? Are the committee members ready to vote?

You'll see this is a lengthy bill. It's about 16 sections. I'm wondering if, with the permission of committee, we can collapse those into one? Agreed.

Shall all 16 sections carry? Carried.

Shall schedule 1 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

Thank you very much, Mr. Zimmer and Rabbi, for coming. We'll proceed then with taking the bill to the House for approval.

Mr. Zimmer: Thank you, Madam Chair. Thank you, members.

The Chair: Members, seeing no other business for the committee, I would call the meeting adjourned until next time. Thank you very much. It was a very successful meeting.

The committee adjourned at 1022.

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AND PRIVATE BILLSCOMITÉ PERMANENT DES
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Wednesday 14 June 2006

Mercredi 14 juin 2006

*The committee met at 1001 in committee room 1.*THUNDER BAY INTERNATIONAL
AIRPORTS AUTHORITY INC. ACT, 2006

Consideration of Bill Pr27, An Act respecting Thunder Bay International Airports Authority Inc.

The Chair (Ms. Andrea Horwath): Good morning, members. I'm going to call the meeting to order since we have a quorum. This morning, we have Bill Pr27, An Act respecting Thunder Bay International Airports Authority Inc. The sponsor of the bill is MPP Bill Mauro and the applicant is Ed Schmidtke, manager of business development. Could you please take your seats at the end of the table. Mr. Mauro, did you have any introductory comments that you would like to make?

Mr. Bill Mauro (Thunder Bay–Atikokan): If you like, Madam Chair. Thanks very much. I'm not sure how the process works. I haven't been to this committee before. This is simply a quick overview. If you have more pointed questions, Mr. Schmidtke would certainly be able to answer them in more detail.

The point of the bill is simply to try and provide a bit of an economic tool to Thunder Bay International Airports Authority. They are a non-profit group that manages the airport property and lands on behalf of the federal government. Thunder Bay International Airports Authority is unique in that it is—I'm not sure if it's the only one, but it's one of a very few that are in this position. Because of their non-profit status and not being municipally owned, they're unable to provide any economic tools for the airport to try and attract business to the airport property.

It's important for me to let you know that what we are trying to accomplish here today has the full support of the mayor and municipal council of the city of Thunder Bay, which, should we be able to bring this to a successful conclusion, would be in the position of offering grants back to new tenants on airport property equal to the value of what it is they would be constructing on airport lands. So this is fully supported by the mayor and council of the city of Thunder Bay.

The Chair: Mr. Schmidtke, did you have any comments that you'd like to make?

Mr. Ed Schmidtke: A couple of comments I'd like to make, yes. Thanks very much for hearing us this morn-

ing. I would like to emphasize the point that Thunder Bay International Airports Authority is a not-for-profit corporation. Should we be successful with this private bill, it is enabling legislation that will allow the municipality to determine on a case-by-case basis whether new aerospace development, narrowly defined, at the airport will be eligible for municipal taxes being granted back. There is no direct economic benefit from these municipal grants accruing to the airport authority; it's simply an addition of another economic development tool as we pursue potential new economic diversification in our region.

The Chair: Before I go to the committee members, is there anybody from the gallery, anybody in the audience who wanted to make a few comments? Okay, great. First, I'll go to the parliamentary assistant for any comments.

Mr. Mario Sergio (York West): Thank you very much, Madam Chair. I appreciate the applicant coming down and making a presentation to the committee this morning. Also, I would like to compliment the local member for Thunder Bay–Atikokan for his effort in steering the bill, seeing that it reaches the committee in good time and understanding the need of the applicant.

As the member has said, the local politicians and mayor are in support of the bill. I think this bill will offer some good flexibility in the day-to-day operation of the airport. The ministry staff have gone through the bill. They have no major problems, if I may say it in such a way. Therefore, we have no concerns in granting approval to the request as it has been presented.

The Chair: Mr. Bisson?

Mr. Gilles Bisson (Timmins–James Bay): First of all, a question to Mr. Schmidtke: Just to understand correctly what you want to do, if you are able to attract somebody in the aerospace industry to become a tenant on the airport grounds, you want the ability to grant back to them their taxes? Explain to me exactly what you want to do.

Mr. Schmidtke: Grant back the municipal portion of taxes, yes. That's what would happen. So if there was a new development at the airport, there would be an assessment, that assessment would generate a tax bill, and the municipal portion would be eligible, at the city's determination, for granting back.

Mr. Bisson: Okay. Just so I understand how that works, as the not-for-profit authority, you own the land, so the tax bill comes to you, doesn't it?

Mr. Schmidtke: No, sir. What's unique in Thunder Bay—and there are only three other airports in Ontario in this situation—is that the land is actually held by the government of Canada. We operate the airport on a 60-year ground lease as a not-for-profit corporation, Thunder Bay International Airports Authority.

Mr. Bisson: Just to back up, then, a quick question: First of all, when they did this—for example, in the cities of Timmins, Sudbury and North Bay, the land for those particular airports is owned now by the cities themselves. Why was it different with your airport? I'm just curious.

Mr. Schmidtke: The federal government, when it began to devolve its ownership of airports, held property on 26 airports that it considered to be vital to the national economy. I guess the federal rationale at the time was, should the airport authorities not operate them correctly, this gives them the ability to reclaim the airport and keep running the airport for national interests.

Mr. Bisson: Just a little side comment before I go to the next question: It's interesting, because Chrétien ran against the Tories on the privatization of Pearson. He didn't privatize Pearson, but he privatized every other one. Anyway, that's my little comment. I thought that was kind of funny.

So that means that the municipality then sends a tax assessment to the federal government?

Mr. Schmidtke: No, sir. Every tenant is directly tax liable to the municipality as if they owned the property outright.

Mr. Bisson: So the terminal building, all the hangars—the buildings that you control as an authority, like the hangars, how does the tax work on that?

Mr. Schmidtke: Let me make a distinction. There are two formulas, depending on who holds the asset. If the airport authority holds the asset in the four airports owned by the federal government in Ontario—Toronto's Pearson, Ottawa Macdonald-Cartier, London International and ourselves—there is a payment in lieu of taxes that is paid based on a passenger throughput formula.

Mr. Bisson: I understand.

Mr. Schmidtke: Our payment in lieu of taxes is not paid based on assessment. All commercial tenants in the airport pay based on normal commercial assessment rules.

Mr. Bisson: So there's a regular assessment and then they pay that tax to the municipality.

Mr. Schmidtke: Yes, sir.

Mr. Bisson: So money doesn't come through you?

Mr. Schmidtke: No, sir.

Mr. Bisson: So you want the municipality of Thunder Bay to be able to say, "This will be good for the economy. We can develop new industries and we'll bonus the taxes back to them." That's what you want to do. Or pay back their taxes or waive—

Mr. Schmidtke: We'll grant the taxes back, yes.

Mr. Bisson: My question to research or maybe the parliamentary assistant—not that I'm opposed to the concept, but I always understood it was the policy of the province that you're not allowed to bonus taxes back. Why is it that all of a sudden the province takes an opposite position? I'm just kind of curious.

Mr. Sergio: I think if staff can answer that—I can't, because I have no idea how you're addressing your question specifically with respect to the interest of the province.

Mr. Bisson: It's interesting, because what happens is that it's long-standing in a number of municipalities. I know in my riding—for example, the town of Iroquois Falls was trying to attract an investment to their community and one of the things they wanted the province to give them authority for was not to charge municipal taxes for X number of years as a way of enticing the investment. They were told they couldn't do that, that it was against the policies of the province of Ontario.

Mr. Sergio: I went through the bill very rapidly but I cannot see anything that would change anything from the present situation. It would not change anything with respect to the existing situation other than granting the flexibility, as I said, with this particular bill, for what they want to do.

The Chair: Can I ask the staff to respond, to see if they can add any enlightenment?

Ms. Laura Hopkins: I'm not able to help the committee with government policy. What I can tell you is that under the Planning Act right now, there is a provision that allows the municipality to make grants and loans under a community improvement plan for certain kinds of improvements on property. I think in the vernacular this is called brownfields improvements. The way the bill works is that it expands the category of improvements that the municipality can make grants and loans for in connection with Thunder Bay International Airports.

Mr. Bisson: Just technically, so I understand, that means if a municipality somewhere in Ontario is trying to attract an investment and that investment would involve land that used to be industrially used for something else, they would have the authority then to say, "I will grant you your taxes back."

Ms. Hopkins: Under the Planning Act, municipalities have authority to make grants and loans for certain kinds of improvements.

Mr. Bisson: When was that changed? I'm trying to remember—for later.

The Chair: Perhaps I can just put my two cents' worth in. The city of Hamilton identified our downtown as a community improvement plan area. In order to get residential development in our downtown to help our local economy downtown, there was a similar scheme of granting back taxes for development in the downtown for residential.

Mr. Bisson: It makes sense.

Ms. Hopkins: It appears that the amendment to the Planning Act that makes this possible was passed in 2001.

Mr. Bisson: So that explains that. Now that I understand—this has nothing to do with you. I'm just trying to understand something technically. What prevents them, as a municipality, from being able to grant the taxes back at the airport is because it's not considered a brownfield development?

Ms. Hopkins: We're outside my area of expertise as a lawyer now, but I think the activities that are contemplated at the airport aren't within the scope of the current provision.

Mr. Bisson: I guess my last question would be, let's say another airport somewhere in Ontario decided to do this. I know North Bay, for example, is quite involved in the aerospace industry as far as providing facilities to refurbished airplanes. If North Bay wanted to do something like that, they would have to come back with a similar bill and there would be no objection from—okay. That's all I needed to know. Thank you.

Mr. Mauro: The difference with Thunder Bay airport, which we've tried to highlight, is that as a non-profit, not municipally owned, they do not have the same tools available to them as North Bay would, which is a municipally owned airport. Because the municipality owns North Bay, the city of North Bay can invest in infrastructure there that makes it easier for them to attract industry and thereby be bonusing the industry that would come, whereas the airport in Thunder Bay is not in that same position.

Mr. Bisson: That's interesting. I'll send a question to research, just to clarify for a few people who have talked to me about this.

Do I have time for another question, Chair?

The Chair: Sure. Any other questions?

Mr. Bisson: I'm a user of your airport, call sign Fox Lima Yankee Victor. I've been there a number of times. You guys provide a good service. For the local pilots who are in that airport, do you guys do what other people do, where you have a fuel surcharge rather than a parking fee?

Mr. Schmidtke: Yes, we do.

Mr. Bisson: Is that how you do it?

Mr. Schmidtke: Yes, that's right.

Mr. Bisson: What is it, out of curiosity? How much per litre?

Mr. Schmidtke: I believe it's five and a half cents for AvGas.

Mr. Bisson: So basically as long as you're a resident pilot with an aircraft at that airport and you buy your fuel there, that's considered your parking fee?

Mr. Schmidtke: That's considered your landing fee.

Mr. Bisson: And your parking fee as well. Oh, no, that's right—

The Chair: Do you know what? Maybe the proponent has some time afterwards to talk to you about this.

Mr. Bisson: That was the only question I had. I wanted to check out the rates in Thunder Bay as compared to Timmins, all right?

The Chair: Not really much to do with the bill before us.

Are there any other questions from committee members this morning? Any other questions or comments? That's great. Are the members ready to vote, then? Thank you.

This is Bill Pr27, An Act respecting Thunder Bay International Airports Authority Inc., sponsored by Mr. Mauro.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall section 4 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

I don't think there is any other business, although it looks like we might be having a meeting again next week in order to wrap up any business that's still around. Thank you and I'll call the meeting adjourned.

The committee adjourned at 1015.

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STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLS

Wednesday 21 June 2006

COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ

Mercredi 21 juin 2006

The committee met at 1005 in committee room 1.

The Chair (Ms. Andrea Horwath): Let's call the meeting to order, if I can. My understanding is, if it's the will of the committee, there has been a request to alternate the two items on the agenda today, so we'll start with the second item and finish with the first. Is that all right with the members of committee? Is that all right with the sponsor?

Mr. Mario Sergio (York West): It's okay with the applicant as well.

The Chair: Okay. Thank you very much.

MASTER'S COLLEGE AND SEMINARY
ACT, 2006

Consideration of Bill Pr28, An Act respecting Master's College and Seminary.

The Chair: I'll call the first item on the agenda, which is now number 2 on the paper in front of you, Bill Pr28, An Act respecting Master's College and Seminary. The sponsor of the bill is Bob Delaney. The sponsor can come to the end of the table with the applicants, if you wish.

Mr. Bob Delaney (Mississauga West): No.

The Chair: Or you can stay here, actually, as a committee member.

The applicants are Mary Ruth O'Brien, who is legal counsel representing the applicant, and Evon Horton, president of Master's College and Seminary; is that right?

Ms. Mary Ruth O'Brien: Yes, it is.

The Chair: Welcome, both of you. I'm wondering if the sponsor wanted to make any initial comments to get us started.

Mr. Delaney: No.

The Chair: Okay. Then it's up to the applicant, if you want to give us some of your information and walk us through your request.

Ms. O'Brien: As indicated, I represent Master's College and Seminary, which has been around in Ontario since 1939, first in Toronto, then in Peterborough and now back in Toronto. In Peterborough, it owned its campus and there were very few issues under the provisions of the Assessment Act on its tax considerations. In Toronto, it is leasing space at Yonge Street and Lawrence. The address is in the draft bill.

The situation is that now, of course, it is paying tax on this property and has been inquiring for up to two years, I believe, about ways and means of doing this, and it has had the city of Toronto's support in this tax application throughout that period. Dr. Horton can give you some details of the ins and outs of his inquiries with the city, but the end result was that he was told by the city that he had to get the act under which the college is governed amended to include a specific provision that it be exempt from taxes. We drafted a bill on that basis, and that is the bill that was introduced last week.

We have since learned that the Ministry of Finance has some concerns both with the very fact of the proposed amendment itself and possibly with the way it is worded. I think the ministry, if it supports this bill at all, would prefer a two-step process, whereby the legislation is amended so that the city of Toronto council then has an opportunity to pass a bylaw to deal with both the future and past tax consequences on this property and the rebate.

Our preference is that this all be dealt with in one step. It's been a very long process, one encouraged by the city, in fact. I do have a letter here indicating what the city's support is, and I would like to present it to the Chair. Our position is that if this committee and then the Legislature are prepared to accept our bill as drafted, we would be happy. However, if there are some serious concerns about this and the committee and Legislature would prefer the two-step process, I understand that Ms. Hopkins has prepared a motion, and we would certainly be prepared to entertain that. Our only concern with the motion is that this has been a long process for the college to this point, and if we have to go through the second step, it's going to be a longer process, particularly as this is an election year for the municipalities in Ontario.

That essentially is our position. I think Dr. Horton, if he wishes, can expand on his contacts with the city. The letter from Councillor Karen Stintz, who has been kind of leading the charge for the college as far as the city is concerned, indicates what the city's position is on this. We would just like to see if we can get this done as soon as possible.

1010

Dr. Horton can speak further about the issue that the city does in fact want something from the province to amend the bill, because under the Assessment Act, of

course, this college would not be eligible for a tax exemption, and the city wants something in the college's own legislation that would permit this.

The Chair: Dr. Horton, did you have a few comments you wanted to add?

Dr. Evon Horton: Yes, please. First of all, I want to thank Mr. Delaney for sponsoring the bill for us and getting it to this point. I appreciate everyone's input. We've been on this journey since November 2004, going back and forth between city and province as to what is the best route to handle this and care for this.

Through this process, we have found recommendations to go back to the city for 100% tax relief, and then the city sent us back to the province. They said, "We'll consider it," once an amendment to our charter has occurred. We were dealing with Mr. Delaney's office, Minister Colle's office, as well as Karen Stintz's office. Then the city tax department, Carmela Romano, has talked to us numerous times, particularly last summer, on this 100% issue, of making application directly to the city, saying they would be glad to consider it and the best route to go would be through a private member's bill amending our charter. So we began that journey, and we are at this point now of wanting to see this through.

If the amendment that legislative counsel has put together to have us go back to the city for a bylaw for the tax relief—we would support that if that's the best route to go, but as Mary Ruth has said, this has been a journey for us. We've just been working very hard to get this through and appreciate any due consideration the committee can give us.

The Chair: Thank you very much. I don't know if there's anyone else who wanted to make any comments, any other interested parties on this particular issue. So I believe the next step would be to open it up to committee members, if there are any comments, starting with the parliamentary assistant for the government.

Mr. Sergio: I can appreciate the applicant's effort in bringing the bill to the House, and I know it's been quite some time; 2004 has been mentioned. I'm sure that they would like to see the bill go through and be dealt with. The time that it has taken—I'm a bit taken aback that some of the hitches that still are within the bill have not been cleared with the city of Toronto. So you could have had, indeed, a very fast approval quite some time ago and not a year later and stuff like that.

I have to bring to the attention of the applicant and the committee that, indeed, the Ministry of Finance and the Ministry of Municipal Affairs and Housing both have concerns with it, two to three things which emanate from that. One is that the applicant is leasing a space in a commercial building where the tax rebate would go directly to the owner of the building, the landlord, if you will, and we have no idea of and no control over what happens from there on. That tax relief may be passed on to the applicant; it may not. We are not aware of that.

If we were to go ahead with it, this would create, I would say, a very unwelcome precedent indeed for the province to deal with in cases such as this one here. We

do deal on a case-by-case basis at the committee and would do it to speed it up, indeed providing the service as quickly as possible to the applicants.

The other—and we are trying to find out as well from legal, because a similar problem existed with the other bill—is why the cities cannot deal directly, because I believe the municipalities have been given the power to deal with cases such as this. The reason why the cities, municipalities, had been granted this power is so they don't have to waste time and come over here, where the process takes much longer.

Amending the bylaws: This is something I believe our legal is looking into. If the city has the power to amend its own bylaws, they would go to one place and deal with one place only, which is the local municipalities.

The other: If we have a concern, it's perhaps that the applicant is not meeting the requirements of the local municipality. If that is the case, then it is not our place to deal with the application here when the applicant does not meet the local municipal requirements. If that were the case, I don't see why, and the legal doesn't see why, if they don't meet the local requirements, the local municipality cannot deal directly with the application. These are the concerns that have been brought. I know that time has been left to the last minute—I can feel for the applicants as well—and we are at the end of the session, but this is the problem we are facing. At this stage, I would recommend either a deferral or a withdrawal, and to go back to the city, but under the present circumstances, with the information provided, I would recommend not to approve the application.

Mr. Gerry Martiniuk (Cambridge): If I may direct a question to the parliamentary assistant, are you saying that the city of Toronto presently does have the power to exempt this property without the intervention of the Legislature?

Mr. Sergio: This is what the Municipal Act, 2001, does indeed say. We have to clarify—if I don't clarify it well enough, then perhaps we have staff here who can clarify that. What the applicants are seeking now is tax relief for one year, on a year-to-year basis. What they would like to see is a permanent exemption, and I think that's where they have a problem with the city. In order to allow that, the city would have to amend their own bylaws where they can't exempt the taxation forever, so they are coming to us.

It's not clear to me. I believe the city has the power to amend their own bylaws, which would let the applicants directly at the city or municipal level amend their own local bylaws, saying, "We're going to amend the bylaws that would give you an exemption on a permanent basis." I believe they have that power. If it's not so, then I call on legal to explain it to us. So that's the problem.

Mr. Martiniuk: Thank you very much, because in my own riding I came to a similar problem. It was not academic, but with a particular use. The city took the position they did not have the power. So possibly I will follow that up with a letter to you for clarification, if you don't mind.

The Chair: I believe there are staff here who want to provide some information, if that's all right with the committee.

Mr. Sergio: Sure, absolutely.

The Chair: If you want to come forward, please indicate your name for the Hansard.

Mr. Mark Osbaldeston: My name is Mark Osbaldeston. I'm a lawyer at the Ministry of Finance. I was just going to confirm that Mr. Sergio's view is the same as finance's, that there is the power in section 361 of the Municipal Act to provide—it's not an exemption, though; it's a rebate that has to be applied for yearly, and it doesn't allow for retroactivity, which is another that both of these bills today allow for.

Mr. Gilles Bisson (Timmins-James Bay): My understanding is that the church, for example, has an exemption currently, so they don't pay municipal taxes, and that's not on a year-for-year basis, is it?

Mr. Osbaldeston: A church? That's an exemption in the Assessment Act.

Mr. Bisson: Oh, that's why. So various organizations have exemptions from paying municipal taxes: Legions etc. They don't have to vote on it every year; it just automatically happens. My question is, why wouldn't that happen for them? I don't understand.

Mr. Osbaldeston: For Master's College?

Mr. Bisson: Yes.

Mr. Osbaldeston: If Master's College owned its property and occupied it, it would fit within the exemption in the Assessment Act. If it leased its premises from another exempt entity, it would fall within the exemption of the Assessment Act. Because it's leasing from a commercial landlord, it doesn't fall within the exemption, and the policy reason behind that, and the reason that the ministry's view is that therefore the appropriate thing is to apply for the rebate, is because the rebate goes directly to the tenant, whereas the tax exemption and the bill will go to the commercial landlord.

1020

Mr. Bisson: Okay. Don't disappear or run away just yet. So to understand clearly, you're saying that even if this bill were passed the rebate would go to the landlord?

Mr. Osbaldeston: Yes. If this bill were passed, the property would be exempt, and it's the landlord who has the property tax liability. That might get flowed through in the—

Mr. Bisson: No, I understand. I just want to understand technically.

Number two, if the city of Toronto today decided to give the property owner an exemption on taxes, you're saying that because that's not one of the ones that it's allowed to do by way of current legislation, it can only do it on a year-by-year basis?

Mr. Osbaldeston: Yes. To put a fine point on it, it's a rebate on account of taxes, because the tenant doesn't pay taxes but they pay an amount to the landlord on account of taxes.

Mr. Bisson: Now I've got questions for you, if it's okay, Chair?

The Chair: Okay. Sure. Go ahead. Thank you very much.

Mr. Bisson: I take it you guys know all about this. You're here, so you must know. I'm just trying to clarify something in my own mind. You've obviously talked to the city of Toronto. The city of Toronto has asked you to do this?

Dr. Horton: Yes, that's right. They've asked us. We've gone to them twice about this, because when we first started the process, the city said, "No. You need to get an amendment to your charter for the 100% exemption." We said okay. So we started with Minister Colle's office, and he referred us to Mr. Delaney's office. As they worked it through, they said, "No. The city does have the ability to do 100%." So we went back to the city. We worked it through the process. We went to the tax department of the city. We went to MPAC and checked it through there three or four times. It took about two or three months. They said, "No, we can't. You need to get an amendment to your charter. Do that. Then come back to us, and we can give it to you." So they have sent us back here twice.

Mr. Bisson: So the city of Toronto feels it's not in a position to give you the rebate on the account of the landlord?

Dr. Horton: They said they can't do that, just as the honourable member over here mentioned. In his case, when he inquired with the city, it said no. That's the same response we got. They can't do that.

Mr. Bisson: I've got a letter here from the councillor of ward—I'm sorry, I don't have my glasses on me—who supports it. But the city of Toronto supports this Bill Pr28?

Dr. Horton: That's right. They do.

Mr. Bisson: All right. I know how I'm voting.

The Chair: Are there any other comments or questions?

Mr. Sergio: I'd like to add one thing. We have two very similar cases here today, and I don't think it's fair that applicants waste a year or over a year being sent back and forth, when some of this situation could and should have been cleared a long time ago.

I think we have to send a message to the city of Toronto that, in order to avoid other applications in the future, it should seriously look at amending its own bylaws. This would give them the power to deal exactly with similar problems, so they would serve the applicant in a much more direct and quicker way.

Having said that and having heard the legal counsel, I have no other choice but to recommend either a deferral, if the applicant would accept that, or a refusal of the application.

The other thing is that the city refuses, in a way, to deal with it, because the applicant does not meet the full requirements of the city. That's where the city should be looking at to change its own requirement or change the bylaws so that, indeed, the applicant meets the city's requirements.

The Chair: Mr. Bisson?

Mr. Bisson: Just that if you want to comment on that point first, then I've got a point that I want to make myself.

Dr. Horton: The only thing to add to that would be, as we got word from legal counsel last February about going back to the city and having it change its bylaw, Councillor Stintz checked that with the city—legal as well as the tax department—and said, “No, they really want it to come here first.” So it would be three times we went to the city.

Mr. Bisson: Which brings me to my point, which is that I hear what the parliamentary assistant is saying in trying to get the city of Toronto to change its bylaws. But there seems to be some Ping-Pong playing—I guess the best way to explain it—between the city and whatever. Why hold these people hostage? That's probably too strong of a term, but you know what I'm saying. If we have to wait for the city of Toronto to do whatever, in the meantime these good people are stuck in the situation they're in for God knows how long. I would much prefer we deal with this on a case-by-case basis. If the ministry rightfully feels that the city of Toronto should change its bylaws, then the minister should write a letter to the mayor of Toronto and council and say, “Please, in the future, so we don't have to do this on an ongoing basis, we ask you to amend your bylaws,” and take it from there. But I don't think we should hold these people up.

Mr. Sergio: I feel for what the member is saying and I feel for the applicant as well. But this would create a terrible precedent for us—for the province, for our committee—to deal with such an application. It is not a case of, “We're going to go with this one here and then we are done with it.” If we do it once, we'll have to do it another time.

The fact is that the applicant is renting space in a private building, in an office building where the tax rebate goes to the owner of the building, to the landlord. Frankly, I have no idea, we have no idea and the government has no idea if at the end the applicant will be getting its fair share of the tax rebate or not. This would set a terrible precedent, and I don't think we should be dealing with it.

Mr. Martiniuk: We have a motion on the floor made by Mr. Sergio to defer this matter.

The Chair: Actually, there's no motion yet.

Mr. Martiniuk: Is there not?

The Chair: He's making the recommendation, but before I entertain a motion on deferral, I'm going to get the applicant's feedback.

Mr. Martiniuk: I'll make such a motion, because I think it's fairly obvious that it's going to be defeated. If it is defeated—no?

Mr. Bisson: Hang on, there's the sponsor of the bill sitting on the other side—

Interjections.

The Chair: Hold on, could I get some order, please? Mr. Martiniuk, are you finished?

Mr. Martiniuk: I'm done. We'll wait.

The Chair: Mr. Bisson?

Mr. Bisson: That kind of threw me off a little bit. I was going to ask—oh, yes. To legislative counsel: I'm just trying to remember, with the various bills I've seen come through here, have we done something similar in the past? It seems to me we have. To the point that this is going to create a precedent, I think the precedent has already been established.

Ms. Laura Hopkins: Since the Municipal Act was amended to give municipalities authority to create these tax exemptions, there have been a couple of bills that have come before this committee. I don't think that there have been any bills that are similar to this one in the sense that the applicant in the previous bills was the owner of the property, not a tenant in the property.

Mr. Bisson: I remember dealing with something similar, but it might have been before the amendment to the current act.

Mr. Hopkins: Yes. In the 1990s, it was a more frequent application, but then the Municipal Act was amended.

Mr. Bisson: My point to the parliamentary assistant is that I know over the years on this committee we've seen this type of request come before us, which is almost the same in the sense that they were the tenants. You could say, “We don't want to create a precedent since we've amended the act,” but it's been the same act for as long as I've been here. The only difference is we've amended it every now and then—seven times or whatever it is.

I just repeat, in fairness to these people, they've done what they were supposed to be doing, and the city of Toronto keeps on sending them back here. They're stuck. If we want to take the position where the ministry feels that the city of Toronto should deal with it, we should be specifically telling applicants before they come before us for a private bill that we will not support it, and not waste their time. In this case, they've done everything they've had to do, with the expectation that this is where they've got to be. I think it's a little bit unfair to these people to turn it down. I sympathize with the parliamentary assistant's point, but I just don't want to see these people go through any more than what they've had to. I would just say that in the future, if it's at all possible, if that's the position that the ministry wants to take, we've got to be really clear with applicants as they come for a private bill that it will not be supported, because we refer them right at that point back to the city.

Mr. Sergio: Just to conclude, I concur with those views. I think I was very clear myself at the beginning when I said that we shouldn't be putting applicants in such a situation. That is why we have just recently given more power to the local municipalities to deal with their own affairs in such a way that municipalities can provide quicker service to the applicants. This is not the same case. I think legal counsel was explaining, Mr. Bisson, that the applicant in that case was the owner of the building as well. That is the difference here.

I know what you're saying—that they've been wasting a lot of time, that they've been used like a Ping-Pong or whatever—but the fact is that this still would create a

precedent and I have difficulties. I wouldn't want to see the application refused because, again, this would create more problems for the applicant as well. I would support the motion that is on the floor for a deferral, and hopefully the city will still be going on and it can be cleared up with the city. I think that is our position.

1030

The Chair: Thank you, Mr. Sergio, but I believe Ms. O'Brien wanted to make another comment.

Ms. O'Brien: Yes. First of all, on the point of the premises being part of a commercial building, I would point out that, as is with most standard leases, the tax issue is called additional rent—it's an add-on—and there is a specific provision in the lease that any tax relief offered in connection with the premises is, of course, applied to Master's College and their tax liability is reduced through paying their rent.

In making some of the inquiries myself, I also learned from an MPAC official that in this very same building there is another part of the building that is exempt from tax. This would be just standard under the Assessment Act, but it is quite common to have parts of buildings exempted from tax. I believe that's space rented by Sunnybrook and Women's College hospital for office or other purposes.

Mr. Bisson asked if there were recent precedents of this kind of application. I was able to find an act, the Ronald McDonald House (London) Act, 2005, which basically is giving the kind of relief we would be getting if the motion I discussed earlier, which we'd be prepared to accept, a kind of two-step process, was followed through, because that was given for Ronald McDonald House. It's S.O. 2005, so it's certainly more recent than the 2001 amendments.

Mr. Khalil Ramal (London-Fanshawe): I understand what you're talking about; I understand where you're coming from. I was also listening to Mr. Bisson talk about fairness to the parliamentary assistant. Since you're referring to Ronald McDonald House, I think the city of London had no objections and was clear on the issue. That's why this committee passed the Ronald McDonald House act. I had a chance to sponsor that bill back then.

I would recommend—I don't know if it's possible to please all the committee members—to defer this bill until a later time, until we have some clarification from the city of Toronto in order to be on equal footing with everybody else.

Mr. Tony C. Wong (Markham): I want to support the deferral motion, and I just want to say—

The Chair: Can I just interrupt you for a moment? I don't really have a deferral motion as such on the floor. There's been some discussion about it. When Mr. Martiniuk was talking about possibly moving the deferral, discussion ensued and the motion never did actually hit the floor. So if we want to start speaking to the deferral motion, perhaps we should put that motion on the floor.

I would actually prefer to have some understanding from the applicants, as you can understand where this discussion is going, whether or not that deferral is going to be in your interest. The problem is that if the deferral motion passes, you know what happens: More time will go by and you'll have to deal with the issue again, probably back at the city of Toronto. If the deferral motion doesn't pass, though, and the bill doesn't pass, then you're into a whole other problem. I'm sure you're aware of that.

Mr. Wong: I was merely expressing my desire and intention to support such a motion when and if it's tabled.

The Chair: But there is no motion on the floor, and it's getting a little bit back and forth here.

Mr. Wong: That's fine.

If I could continue, I want to speak to the applicants with respect to a comment they've made, that there is a technical difference, although I know, pursuant to the lease, that these exemptions or reimbursement benefits would likely flow to the applicant. It is one thing to say that conceptually the applicant would benefit from this bill, if passed, but it's technically significant for us to do this, because we don't want to look at all kinds of leases. We are not your council, so technically there is a difference, although I note the point that has been raised. And as a solicitor by profession, I know that when we decide to support or not support this motion or this bill, it would be difficult for us to argue later on, because we are now dealing with a separate lease and there are different provisions, and there would be extraneous arguments to that effect. I'm not saying that I'm not supporting this conceptually; I'm just saying that that point has to be dealt with in a fairly cautious manner.

Mr. Delaney: I move that consideration of Bill Pr28 be deferred.

The Chair: Thank you, Mr. Delaney. I appreciate that being formally on the table. Discussion about the deferral motion?

Mr. Bisson: I'm disappointed that the sponsor of the bill moved that motion. I don't know whether to read into that that you're getting a direction from the government or what the heck is going on, but it seems to me that these people have been bounced around between the city of Toronto and the province for long enough. You've heard the arguments. You know more than I do; you've been dealing with the bill. I would be more than prepared to vote against the deferral, should you decide to vote against your own motion, and vote positive on the bill in support of Mr. Delaney's attempt to give these people what they should be getting, because as I said earlier, there is precedent. I don't buy the argument that we're going to create some sort of dangerous precedent; we've created that precedent over and over and over again on this committee. I know I've dealt with similar bills on a number of occasions since I've been here in 1990 and, as was pointed out, as recently as 2005—

Mr. Sergio: Madam Chair—

Mr. Bisson: You'll get a chance. I would just like to hear from Mr. Delaney if he would be prepared to vote

against his own motion, which is kind of odd, knowing that the opposition, both the Conservatives and the New Democrats, would vote in support of your PR bill to give these people what they want.

Mr. Sergio: Let's be clear: We don't want to politicize this particular bill at this committee here, but we heard from legal counsel that we have had no similar precedents at this level. We have not had any similar cases to this one. All right? This came from legal. I would rather take it from legal counsel than from other sources. Having said that, I will support the deferral motion.

Mr. Bisson: Listen, I disagree. There has been precedent. I would ask for the presenters to read the precedent once again. This is not about politicizing; far from the point. We're trying to help these people. Maybe you want to comment to that, presenters?

Ms. O'Brien: I've just been handed a copy of the Ronald McDonald House act. It was dealing with leased land. It was giving relief as long as they were operating Ronald McDonald House in London on land it leases from the London Health Sciences Centre and carrying on the activities that Ronald McDonald House gives: temporary housing.

The wording of this act, just from my scan, is practically identical to the amending motion that has been suggested to come to it, basically allowing the matter to be considered by the municipality by bylaw. It's the same situation: Ronald McDonald House was leasing land. That's why they had to bring this application. The bill was assented to December 15, 2005, just six months ago.

The Chair: Thank you, Ms. O'Brien. I appreciate that. If I could maybe turn to staff for some clarification as to whether or not there's an actual precedent here?

Ms. Hopkins: I apologize. Apparently, I gave the committee incorrect advice about the precedent of a tenant applying for an exemption. I'm sorry.

The Chair: Is there any comment from the Ministry of Finance staff in terms of whether or not this is a similar situation?

Mr. Osbaldeston: I actually didn't recall that that was a lease. I know the reason the ministry didn't oppose that was there had been other Ronald McDonald Houses in other municipalities which had had their private exemptions.

The Chair: If I can ask the indulgence of the committee, is there anything to do with the fact that it's a hospital, and hospitals don't pay taxes; they pay payments in lieu? Or is it all the same?

1040

Mr. Osbaldeston: Sorry, I don't understand the question.

The Chair: Direct taxes usually are not paid by hospitals. They make payments in lieu, basically a head tax, or a bed tax, actually.

Mr. Osbaldeston: That's right. I don't know that that would apply to Ronald McDonald House, however. I think it had to do more with the fact that there was

precedent already for the other Ronald McDonald Houses affiliated with the other hospitals.

The Chair: Okay. I'm not sure if that clarifies much at all, but I appreciate that.

Mr. Bisson: It does clarify, because Ronald McDonald House is a not-for-profit organization that, like these people, was basically attempting to do the same thing. My argument is—and I'd remembered that, because I remember on a number of occasions having to deal with similar situations where we've given exemptions to people who are tenants. So the precedent is there.

I just repeat—and I'd just ask the members. I don't want to politicize this. I understand the government is trying to do the right thing here, but so are we in the opposition. If there's an issue—and I repeat it again—between the ministry wanting the city of Toronto and other municipalities to do something different, such as amend their bylaws, then we should make that very clear to them by getting the minister to draft the letter and not using these people as a pawn in trying to pressure the municipalities to do what you want. We shouldn't put them in the middle of this situation. We should allow this to happen.

Then we should, through the minister, suggest to municipalities that, rather than sending people here for private bills to deal with this issue, they amend their bylaws. And number two, we should have a fairly clear policy, and do that as the committee, to say to anybody that if the government does take that position, they want the municipalities to change their bylaws and they want the applicants to go to the municipality first. This committee should be very clear to those people wanting to sponsor bills that what's going to happen in the end if they come here would be the result of what the ministry policy was. So, Bob, we support you.

Mr. Martiniuk: If I may, I'm trying to assist the applicants, and I'd like to hear from them. I'll do anything to vote to assist them, but if the motion to defer is defeated and we go to the bill and the bill is defeated, you're going to start all over again, which would be a catastrophe, in my opinion. Therefore, I'd like your indication as to what course of action you feel we should follow under the circumstances at this stage of the game.

Dr. Horton: I appreciate very much the opportunity to address that question. We have been on a long journey, and we have been back and forth a number of times. I do not want to see the bill defeated, of course, and I do not want to start all over again. So if this is what we need to do in order to keep this alive, then I'm certainly willing to accept that. That's not what I want. It's not what's best for the school. It's not the journey we've been on, and we've been given some very difficult and perhaps inappropriate advice along the way, because we have worked very hard for about 19 months on this.

I do appreciate Mr. Delaney's willingness to defer this to help us keep it alive. I appreciate that very much. So I would be open to the advice of the committee and what you think is best for us, because we're just trying to get this done and I need your help.

Mr. Bisson: My strong advice is to not defer it, because if you defer it, it will go into the Black Hole of Calcutta. My experience is that there's not going to be any pressure on the government to do anything, and I don't mean this Liberal government, an NDP government or a Conservative government. I'm just saying that if we defer this thing, there's no mechanism that you have, other than your good efforts at lobbying, to get this dealt with. I think you're better off to bring this to a vote. If it's defeated, you're not any worse off. All you have to do is reintroduce the bill. That's not that bad a thing to do.

Mr. Martiniuk: I have a question.

The Chair: Certainly.

Mr. Martiniuk: Can we defer this with a time limit, to say, "Returnable before this committee by October 1—or November 1, to be on the safe side—2006"? At least there's a time limit. It will have to come before this committee and we can deal with it.

Dr. Horton: If I just may ask, I would be interested in what our member of Parliament, Mr. Delaney, does think about this.

The Chair: That's my job.

Dr. Horton: I would appreciate that.

The Chair: And yes, I do understand that would be a friendly amendment to the deferral motion. Is that acceptable, Mr. Delaney?

Mr. Delaney: Go ahead. Agreed.

The Chair: On the amendment, then, to—

Mr. Bisson: Just while we're still on the discussion of the motion, you're telling me that you're prepared to go that way—

Dr. Horton: I would like to know what Mr. Delaney thinks is the best to follow, if you may ask.

The Chair: I'm sorry?

Dr. Horton: If you could ask Mr. Delaney, as Chair, what is appropriate and what he would support and feel comfortable with.

Mr. Bisson: That was my point. I'd ask Mr. Delaney if he's prepared to vote against the motion. I would vote and Mr. Martiniuk would vote in favour, which means to say you would get this.

The Chair: There's a deferral motion on the floor with a friendly amendment to add the date of November 1, 2006. So first, on the amendment to the motion, which is November 1, 2006.

Mr. Bisson: Recorded vote.

Ayes

Delaney, Martiniuk, Ramal, Sergio, Wong.

Nays

Bisson.

The Chair: The amendment passes.

I'm going to ask for the vote on the main motion, assuming that the debate around the table has exhausted itself.

Mr. Bisson: Recorded vote.

The Chair: A recorded vote has been requested on the main motion, which is the deferral of this item until a later date.

Mr. Sergio: I think there is a—

The Chair: That's the amendment that's already passed.

Ayes

Delaney, Martiniuk, Ramal, Sergio, Wong.

Nays

Bisson.

The Chair: Thank you very much, committee members and applicants. The item is deferred now until not later than November 1, 2006.

SHEENA'S PLACE ACT, 2006

Consideration of Bill Pr29, An Act respecting Sheena's Place.

The Chair: Could I ask the representatives to come forward regarding the next item of business, which is Sheena's Place. The sponsor of the bill is Mr. Marchese. The applicant for Bill Pr29, An Act respecting Sheena's Place, is David Bronskill, the legal counsel. I believe there is someone else. Could you introduce the other people with you, Mr. Marchese, and make your comments?

Mr. Rosario Marchese (Trinity-Spadina): Yes, I can. To my right, Donna Shoom-Kirsch and David Bronskill, who is going to be speaking to this bill as soon as I introduce it.

I move that leave be given to introduce a bill entitled An Act respecting Sheena's Place and that it now be read for the first time.

The Chair: Go ahead.

Mr. Marchese: Quickly, to read from the compendium of background that some people might have read, the Hospice for Eating Disorders of Toronto, Sheena's Place, is North America's first community-based, non-profit organization to provide support services at no cost to people with eating disorders and their families. I support their work and I support this motion that we have here today. We're going to have David Bronskill speak to this bill. There are some differences with the previous bill that we have just addressed, and David will make that clear.

The Chair: Mr. Bronskill, go ahead.

Mr. David Bronskill: I'm going to walk through three key differences for you between our bill and the one that came here before.

First, I'd like to deal with the issue of the rebate. I understand the issue of the rebate. It's section 361 of the Municipal Act. I don't know if you have our compendium of information before you. We actually have a city staff report where city staff comment on our request. In the report, at page 3, city of Toronto staff specifically mention the rebate program. It's a rebate program that allows rebates "payable by eligible veterans' clubhouses and ethnocultural centres. While not a true tax exemption"—and I would emphasize that—"these programs provide rebates in an amount equivalent to the total property taxes payable. Sheena's Place does not meet the eligibility criteria for either of these programs." So we do not qualify for their rebate program.

Secondly, under the legislation, paragraph 7 in subsection 361 (3), "An application for a taxation year must be made after January 1 of the year and no later than the last day of February of the following year." I'd like to emphasize that. There is a time limit within which you can make these rebate applications, and that will become important when we come back to the substance of the bill.

We have been at this for eight years. The last applicant said 19 months was a journey. We have been at this for eight years. We have filed appeals with the Assessment Review Board, we have negotiated with MPAC, we have tried our hardest to fit a square peg into a round hole, and it does not fit. We don't fit any of the exemptions under the Assessment Act. MPAC has said to us, "You fit the spirit of those exemptions, but you do not fit the letter." The city of Toronto and MPAC have both said to come here and get that exemption. That's the second thing I wish to say to you.

1050

The rebate would require Sheena's Place, an entity that relies entirely on private donations, to have to file for a rebate every year. They operate with volunteers and a limited budget, and every hour that is spent doing something like a rebate application is an hour that cannot be spent on fulfilling their mandate and delivering their programs. That's why they are asking for a permanent exemption.

The bill, you will also see, asks for an exemption on the back taxes. These are the taxes that have been in place since we started this process eight years ago and, quite frankly, the rebate that Mr. Osbaldeston has mentioned to you will not qualify. We will not qualify for those back taxes. There's no way the city of Toronto can amend its bylaw to give us a rebate for something that is over a year ago or over eight years ago. Simply, that avenue is not available to us.

The third difference: We own the property. So this would be an exemption that would come directly to us. This is not a case of a lease. Sheena's Place owns the property. What we are asking—and the bill is very limited. It has been crafted through consultation with legislative counsel, and we appreciate the assistance in doing it. It has been invaluable. It would allow the city of Toronto the discretion to enact a bylaw to pass an exemp-

tion. This Legislature would not be granting the exemption. It would be giving authority to the city of Toronto to enact an exemption for the back taxes. That is all we are asking. We are asking this Legislature to give the city of Toronto that authority, and we have a council resolution where the city of Toronto is asking you to do that, saying, "This square peg doesn't fit in any of the round holes. Please give us that authority. We will then pass the bylaw and grant the exemption."

If you're worried about this exemption being transferable, again, through the assistance of legislative counsel, it applies only to Sheena's Place and only so long as it is a registered charity. We are closing this off.

The final thing I'll say is in terms of precedent. I do think it is a little bit unfair for this government to draw a line in the sand now and say to us, "Go back to the city of Toronto; try and make that rebate program work," when we have been at this for eight years. We relied on two bills that came into force and effect at the end of 2005. I've got two of them here: An Act respecting The Kitchener-Waterloo Young Men's Christian Association, assented to June 13, 2005; the other bill, the Ronald McDonald bill.

If I can read from the legislative debate, which included some Liberals on this standing committee: Mr. Dave Levac from Brant, who votes for it, says, "I deeply appreciate the work you do." This is with respect to the Ronald McDonald House. "We're very impressed ... I would vote for it." Mrs. Maria Van Bommel: "I want to say thank you very much, but I'm not going to say it as parliamentary assistant, simply as the MPP for Lambton-Kent-Middlesex." Voted for by everybody on the committee, regardless of political stripe.

I've also got the text of the debate regarding the Kitchener-Waterloo YMCA Act that was assented to June 13, 2005. Again, unanimous, no matter the colour of political stripe.

If you are worried about a precedent, draw the line in the sand today, after us. It is a very easy thing to do. We've been at this for eight years. Please don't send us back. Please don't defer us. Please don't send us back to the city of Toronto to try and use the rebate program, which we know now cannot get us the relief we need. Draw the line after us. Say to all the MPPs, "We cannot keep having these bills come forward. That is our new policy." Send a letter to the city of Toronto and say, "We cannot have these come forward. Use your rebate program." Or amend the Municipal Act or the City of Toronto Act and give the city the ability to pass bylaw exemptions if you don't want to have to deal with this issue. But, quite frankly, an exemption is different from a rebate, and the way the legislation reads now, you have to deal with this issue.

You've got our local member, to whom we are so grateful for his assistance, supporting it. You've got the local councillor in the city of Toronto—two of them, I might add—first, Ms. Olivia Chow, and then her fill-in, Mr. Silva. You've got the entire city council resolution saying, "Pass this exemption." It just seems to me

obvious on the face of it that to send us back based on a technical argument about a rebate is unfair in the extreme. We would ask for your support today. Help us end this eight-year journey here today. Thank you.

Mr. Marchese: Madam Chair, before we get the parliamentary assistant to speak, could we get the lawyer from finance to comment on what he just heard?

The Chair: Actually, I'd like to have the parliamentary assistant first and then the staff, because the parliamentary assistant might bring some issues that the staff can address as well.

Mr. Sergio: I will have some issues but I think it's proper that we hear from the ministry staff to respond to some of the questions that have been raised.

The Chair: All right. That's fine.

Mr. Sergio: I believe that this may serve another purpose. There were some negotiations going on, so I think we'd like to know as a committee if there was any fruitful negotiation that came out of it.

The Chair: Thank you, then. Can you join us again, please?

Mr. Osbaldeston: Basically, the ministry's position on this is the same as on Master's College; that is, there is a provision in the Municipal Act that is the appropriate provision to use. Mr. Bronskill mentioned the city staff report said that Sheena's Place wouldn't fit into that provision. My reading of it is that it wouldn't fit into it under the municipality's bylaws as currently enacted, because it only allows 100% rebate for an ethnocultural club or a veterans' club. The ministry's view would be that the municipal bylaw could be amended. I guess that's the response to that. Otherwise, yes, I agree that program wouldn't allow for retroactivity; it would require an application every year.

One other difference is that the Master's College counsel offered to make this amendment. This bill does allow for a municipal option, so basically the decision becomes a municipality's option, which addresses one of the concerns that the ministry originally had with the Master's College bill, over and beyond the fact that it's the wrong vehicle.

The Chair: Thank you. Mr. Bronskill?

Mr. Bronskill: Two very quick things. I actually agree with much of what Mr. Osbaldeston said except for one thing, and that's the rebate program. I want the committee to be very clear about the extent of the rebate program. There is a timeline within which you can apply. It says quite clearly, "An application for a taxation year must be made after January 1 of the year"—so January 1 of that taxation year—"and no later than the last day of February of the following year," so February the year after. We are in June 2006. We are out of time for 2005. There's no retroactivity so we cannot go back the eight years. We will gladly apply for a rebate in 2007 if that is the wish of this committee, but the rebate program will not do anything to help us with the relief that we are seeking here today. It will not do a thing. So the city of Toronto could amend its bylaw all it wants to include us

within the rebate program; it won't help us one bit with what's before this committee today.

The Chair: Mr. Sergio?

Mr. Sergio: Shall we hear from the sponsor of the bill first?

The Chair: I don't know if the sponsor of the bill had any further comments. It seemed to me—

Mr. Marchese: I think the arguments that David has made with respect to the rebate program and with respect to the exemption—the exemption has to be dealt with here. It cannot be dealt with at the city level. The city sent them here with their resolution saying it has to be dealt with by this committee. This is a charitable organization; it's a registered charity. So whatever rebate or exemption applies, applies to them as a charity. If they didn't exist as a charity any longer, that exemption would not apply to that building any longer.

This is a worthy cause that I think we can and need to support. I'm not sure that there ought to be any difficulties that should stand in the way. I'm just hoping the parliamentary assistant has heard enough from the lawyer and from the finance lawyer that might persuade him and the committee members that we're on the right track here.

The Chair: Mr. Sergio, comments from the government?

Mr. Sergio: I know eight years is a long time. I wonder why we are put in a situation ourselves and the applicant when matters, I believe—there should be a way to expedite applications such as this. It isn't fair. But we're facing certain realities, and the question is tax rebate or tax exemptions. We understand the difference between the two. It amazes me that with all the powers—I'm going to ask this question of our legal staff—that municipalities and the city of Toronto now have and have had before, they don't have the power to approve, to pass their own bylaw which would give them not only tax rebates but tax exemptions as well. My question to legal staff is, within the existing Municipal Act and laws and bylaws and powers that we have given the municipalities, especially the city of Toronto, do they have the power to amend, to create a new bylaw, to pass a new bylaw that would amend their own municipal bylaws, giving them a full exemption instead of just a rebate?

1100

Mr. Osbaldeston: They could amend their bylaw under section 361 so that they could provide a 100% rebate to Sheena's Place.

Mr. Sergio: They don't have to ask provincial approval, if you will, to make an amendment to an existing bylaw?

Mr. Osbaldeston: Not to do that. They could also, under section 107 of the Municipal Act, make a grant to Sheena's Place on account of the back taxes. So they couldn't give a rebate, but they could go under another section and give a grant. As the staff report points out, they probably wouldn't want to do that in respect of the education portion, which is essentially provincial.

Mr. Sergio: Two things here: Number one, I will indeed take into consideration and bring this to the attention of the ministry and try to clear up the situation with the city of Toronto once and for all, because I don't think it's fair that we put applicants through similar situations. The other is that they are coming here under the assumption that it is us and not them. I think we have to put an end to that as well.

If it takes another deferral and an application for a rebate for one year, because they can get it but they have to apply every year, I would say, instead of getting a refusal, defer the application, apply for this year's or last year's rebate, and then try to solve it, try to finalize it either there or here, once and for all, so they can indeed get the tax exemption they are asking for.

I do appreciate all the wonderful work of these various organizations. I think that every member doesn't want to see these people being put through a routine where they have to be bounced back and forth. I think we have to deal very seriously with the matter, not only to alleviate our workload, if you will, but also to serve the community better through their own agencies. So I take it upon myself to bring this to the attention of the proper ministry, but at the same time, having heard the advice I've heard this morning, I advise that the municipalities do have the power.

I would say it is inconvenient for them always to apply on a year-to-year basis to get this rebate. In order to get the exemption, I would say, let's dig into it, let's do it and let's direct the applicant, if they so wish, to apply for the rebate for this year, because municipalities have the power, and then let's finally decide who can do it, when and how, and get to the bottom of it. So I make a motion for deferral.

The Chair: I have a motion for deferral on the floor, but Mr. Marchese wanted to respond to that, and then Mr. Martiniuk.

Mr. Marchese: I was hoping he wouldn't move deferral yet.

The Chair: He's done so.

Mr. Marchese: I wanted to ask him and the lawyer to speak to the fact that—David made reference to two bills. The board of directors of the Kitchener-Waterloo Young Men's Christian Association has applied for special legislation to exempt from taxation for municipal and school purposes any land occupied for the purposes of the association of the city of Waterloo—an exemption, it's what we're asking for—and the board of directors of Southwestern Ontario Children's Care Inc. has applied for special legislation to exempt certain land from taxation for municipal purposes. Those are two bills applying for exemption, and they came before this committee. We're doing the same. We're making an argument that says the city can. I'm just not clear. Maybe the lawyer could comment on these again?

The Chair: Could you clarify what it is that makes this application different from the two that the committee has already passed?

Mr. Osbaldeston: Yes. I had mentioned the Ronald McDonald House. On that, finance made no submissions. Again, it was on the basis that, while finance still believes the proper vehicle is a 361, there was the precedent for the Ronald McDonald Houses in other municipalities; and the same with the YMCA insofar as the YMCAs and YWCAs in other municipalities have this treatment.

Mr. Marchese: How do you make a different argument for different organizations? I don't get it.

The Chair: I have another question from a committee member, so if it's all right with the committee, if we could give them the time to work through some of these issues, as we did with the previous applicant, it might be helpful.

Mr. Martiniuk: My question to legal counsel is very simple. I have an identical case in my riding with a hospice which, in effect, is a hospital except it happens to be a hospital for persons with terminal illness. All the legal opinions we've received to date say that it does not fall within the exemptions of section 361 of the Municipal Act.

You have heard the use that this particular application has been put to: Sheena's Place. It's a treatment centre for persons with eating disabilities or illnesses or whatever you want to call it. Are you saying it is the legal opinion of the Ministry of Finance that this particular use falls within the uses to which rebates would be eligible under the Municipal Act?

Mr. Osbaldeston: Our view is that, under 361, the municipality would have the ability to amend its bylaw so that Sheena's Place could get the 100% rebate. It's a registered charity and it fits within the other—

Mr. Martiniuk: Amend what bylaw?

Mr. Osbaldeston: The city has to pass a bylaw under the Municipal Act to set up its rebate program for charities. There are certain parameters that they have to meet as minimum requirements. They have to give a 40% rebate, but they could go up to 100%. They could give a uniform percentage to all kinds of charities; they could differentiate. Those are their decisions.

The city of Toronto has decided it will only give 100% to two different kinds of institutions, neither of which Sheena's Place falls into.

Mr. Martiniuk: So you're saying that the municipalities are in fact defining the uses, and this use may not fall within the municipality's bylaw.

Mr. Osbaldeston: Yes, that's our view.

Mr. Martiniuk: So is there any use prohibited by the statute itself?

Mr. Osbaldeston: Yes. It has to be a registered charity or it has to be—I have to find the exact wording. It's something along the lines of an entity that is akin to a registered charity. It may not have to be registered, but basically a charitable organization.

Mr. Martiniuk: Madam Chair, historically, I believe, there are about 25 Ronald McDonald Houses that have gone through this committee. Surely we have better things to do than pass exemptions for individual charities in Ontario. This committee should not be in the position

of—we don't hear evidence. We hear representations; we do not hear evidence. We shouldn't be put in this situation. However, the precedent has obviously been set by a number of them. I can only say that this is a valued use being put forth by the applicant, and I will certainly support the bill.

The Chair: Go ahead.

Mr. Bronskill: Thank you, sir. I just wanted to follow that up because I want to be clear again about the distinction between a rebate and an exemption. The parliamentary assistant suggested that we could go and apply for a rebate. We can, next year, for 2006. We can apply in February 2007 for a rebate for the 2006 tax year. We cannot apply for a rebate for the years from 2005 all the way back to 1996, which is what this bill would address. That is not available to us. There is nothing that the municipality can do in amending any of its bylaws. That's the difference between a rebate and an exemption.

What we're asking the Legislature to do is respond to the request of the city of Toronto; give the city of Toronto the ability to choose whether it wants to grant the exemption. It would still have to pass a bylaw, as Mr. Osbaldeston says, about the rebate program. This would just be a bylaw to grant an exemption. Give it that authority; let it be the city of Toronto. Let it be the big city that this government wants it to be and let us have that exemption, please.

1110

A deferral means we have to come back in a number of months, we have to invest more time and more energy that could be put into the charitable programs of this institution, and it means that potentially we're not applying for any type of financial relief through a rebate until February 2007. With an institution that has a budget like Sheena's Place, that is a long time.

If there's a concern about a precedent, draw the line in the sand after us. But please, it's been eight years. I do not understand why we would not pass this bill to give the city of Toronto the power it wants, when I think we are all in agreement that the city of Toronto does not have any authority to give us any relief from 2005 back to 1996.

The Chair: Are there any other comments?

Mr. Marchese: If the position of the government or the ministry was, "We've exempted other entities before and we simply do not want to do it again," I would understand it. But it's not the position being put forth. So either the city could be doing this, I presume, based on the legal position of the finance ministry, or we could be doing this and we have. If we have, we can continue to do it. It's not as if we're putting the parliamentary assistant in a position he or previous parliamentary assistants have not been in before. It's been done. It's either we do not do this any longer, and I would understand that, or we've done it and we continue to do it because it's in the interest of an organization that does a public good for a whole lot of people who have eating disorders. They need the help to continue doing the work they do.

It's not that complicated, in my view. I understand the parliamentary assistant is in a difficult position, but precedent is there. There is no direction saying, "No, don't do it anymore." Therefore, I think the members are free to say, "It's okay for us to do."

The Chair: Are there any other comments from members of the committee?

Mr. Sergio: Madam Chair, I know we're stretching it. Just a question of the applicant: You said that you've been dealing with this for eight years. When were you in front of this committee last time?

Mr. Bronskill: We've never been in front of this committee.

Mr. Sergio: You've never been to this committee in eight years?

Mr. Bronskill: No.

Mr. Sergio: And you have never applied on a year-to-year basis for your tax relief?

Mr. Bronskill: We have appealed and dealt with appeals before the Assessment Review Board to deal with assessments on a year-to-year basis with MPAC.

Mr. Sergio: Why were you not granted tax relief?

Mr. Bronskill: Because we do not fit with any of the exemptions. MPAC cannot grant it if we don't fit within the legislative exemptions.

Mr. Sergio: Thank you. This is the problem. As it is, I would recommend not to support the application.

On page 1, it's very clear. It says:

"Taxpayers who do not meet the requirements for exemption under the Assessment Act can seek property tax relief from their municipalities through the rebate program for charities and non-profit organizations under section 361 of the Municipal Act, 2001, or through the general grant program under section 107 of the act.

"The provisions in the Municipal Act, 2001 are intentionally designed to give municipalities broad powers to provide property tax relief to charitable and non-profit organizations...."

It is amazing that it's been eight years and this committee has never dealt with an application, that the applicant has never applied for tax relief for the first, second, third, fourth or seventh year of tax rebate. In all honesty, I appreciate what this does to the applicant, but I cannot recommend approval; I would suggest a deferral. Hopefully, if they want to come back in the fall, if they want to come back with some changes, by all means, the committee is prepared to deal with it as soon as possible. In the meantime, as I said before, I will inform the proper ministries to send out some clear signals not only to applicants in general, but to the city of Toronto. I think we have to send a very clear message on where we stand with respect to such applications. So the motion for deferral stands.

The Chair: Is there any further comment from committee members?

Ms. Donna Shoom-Kirsch: Can I—

The Chair: Before you do, and I have no problem having some comments from you, but just to be clear, if the committee decides on deferral, you're not dead in the

water, but if the committee turns down the deferral and votes against the bill, then you're back to square one, which is probably a worse position, just so you're clear about that. So I'll let you have the comments, and then I'll have to turn it back to the committee for a decision.

Ms. Shoom-Kirsch: I just want to make a response to what has just been said. I'm the executive director of this organization and I have been with them for less than a year. I have made an effort in this year to move it forward, because I saw the eight years, but the reason—I understand why it's taken seven years.

We have a core staff. There are only five people who are paid, but mostly we do our work with volunteers, people from the community who have expertise that we need, and they give of their time for no remuneration, but it's over and above their workload. So sometimes they weren't timely in their responses in those seven years, sometimes they weren't able to get the papers in to meet deadlines, and oftentimes the response that they got on phone, by e-mail, by correspondence, in meetings just discouraged them so much that they got tired and sat for a few months.

But I think Laura Hopkins and Susan Sourial will attest to the fact that in the last eight months I have been dogged and diligent in the pursuit of getting this to the attention of the city and to the attention of you today. That meant that I used my time during the day to make phone calls to Laura, e-mails, and to get what was written, to get what was needed in on time so that we could get here before this session ended in June, but that meant I had to work at night and I had to work on weekends to get the job done that was necessary for our clients.

So you ask why it took eight years, but where is the responsibility on your part to be responsive too? There was a precedent set. In 2005, there was a decision made that was similar to our organization. Why can't the line be drawn after us in respect to what we've been put through?

The Chair: Thank you very much. Mr. Marchese, you had a final comment?

Mr. Marchese: David Bronskill made reference to this, and I'd like to repeat it, because I know that Mr. Sergio was talking to another member at the time. It's not a bad thing; it's just that you didn't hear it. This is from the deputy city manager and chief financial officer from the city of Toronto and the report that David was making reference to, with respect to these things:

"And finally, the city of Toronto has established rebate programs to provide a 100% rebate of taxes payable by eligible veterans' clubhouses and ethno-cultural centres. While not a true tax exemption, these programs provide rebates in an amount equivalent to the total property taxes payable. Sheena's Place does not meet the eligibility criteria for either of these programs.

"As such, in order for Sheena's Place to be made exempt from taxation, they would have to either meet the requirements for an exemption under section 3(1) of the Assessment Act"—and I was just trying to review it

quickly here, which the city could do, but I'm reading that they can't apply there, because it says, "Land owned, used and occupied solely by a non-profit philanthropic, religious or educational seminary of learning or land leased and occupied by any of them if the land would be exempt from taxation if it was occupied by the owner;" they do not fit into that subsection 3(1) of the Assessment Act—"or be made exempt through property-specific legislation, i.e. via a private member's bill," which is what they've done.

So Mr. Sergio's going to send us back to the city. We have a report from the city whose title I've read into the record. I don't know what we're going to go back to the city to do. They've already written a report; they've already directed what we can and can't do. It's either through that subsection 3(1), which we don't fit into, or via this private member's bill. What else can we do? Mr. Sergio, I read this for the record to try to help you think this through, because we have no other way of dealing with this. If you don't reconsider, I'm terribly disappointed in the direction that you've taken on this issue.

The Chair: I don't know if there are any other comments from committee members.

Mr. Sergio: I don't want to respond because I will have to repeat the same thing. Therefore—

Mr. Marchese: How could you repeat the same things based on what you just heard me say? I don't get it.

The Chair: Are there any other comments from the committee members? It doesn't look like there are any other questions or comments. There's a deferral motion on the table at this point in time.

Mr. Bronskill: Can I just say, Madam Chair, if the choice is between deferral and defeat, we would grudgingly accept deferral. We still don't quite understand, but we'd rather that than have it defeated. Hopefully a meeting with the government will help speed things along. I will say that my client is going to go away quite distraught and upset and frustrated, but we would accept deferral if that's the choice.

The Chair: Okay. Thank you very much. If there are no other comments from the committee members, the deferral motion is on the table and I would—

Mr. Martiniuk: Recorded vote, please.

Ayes

Delaney, Ramal, Sergio, Wong.

Nays

Martiniuk.

The Chair: The deferral carries. Thank you for your time.

Mr. Bronskill: Thank you again to staff. They have been absolutely wonderful in this process.

The Chair: Thank you. Can I just ask, before we adjourn, which we haven't done quite yet—I guess there's no obligation, but my understanding is that these

bills will continue to come forward. I'm wondering if the government can provide some kind of written assessment or some kind of report to the committee that will help us in the future to deal with these kinds of matters; if you could take that under advisement, I'd appreciate it.

Mr. Sergio: Yes. As I said, I think it's my duty and responsibility to see that applicants are well aware of the situation, what to expect. I think it's important for members of the committee as well, and for the public in general. So I will be advising the ministry to give us some directions, as well as to the community in general.

The Chair: That's much appreciated. Thank you very much, Mr. Sergio.

Mr. Bronskill: Madam Chair, before you adjourn, the bill before us had a specific date to come back. There was no similar amendment for ours. I don't know if you

have adjourned or whether the government would prefer to—

Mr. Sergio: If I may, I said as soon as possible, which means—

Mr. Bronskill: That's fine. Thank you, sir.

Mr. Sergio: I think there was a date of November 1 in the first bill.

The Chair: In the previous bill, yes.

Mr. Sergio: And I'm saying as soon as possible, even before November 1.

The Chair: Okay, that's fine. Thank you very much. It's been a difficult morning and I appreciate everyone's time.

Mr. Sergio: And the efforts of the local member, as well.

The Chair: The meeting is adjourned.

The committee adjourned at 1124.

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Lundi 28 août 2006

Standing committee on
regulations and private bills

Comité permanent des
règlements et des projets
de loi d'intérêt privé



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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLS**

**COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ**

Monday 28 August 2006

Lundi 28 août 2006

The committee met at 1002 in committee room 1.

The Chair (Ms. Andrea Horwath): Good morning, everyone, and welcome to the standing committee on regulations and private bills. We're going to get started, as we do have a quorum. I want to welcome those of you for whom it's your first time back since we broke for the summer to this meeting today to talk about Bill 120, An Act to require the Building Code and the Fire Code to provide for fire detectors, interconnected fire alarms and non-combustible fire escapes.

Today's proceedings will be deputations from the public on Bill 120. Each deputant will have a 20-minute time slot to be able to make their presentation. But we will begin with the report of the subcommittee on committee business.

SUBCOMMITTEE REPORT

The Chair: I believe a member of committee has volunteered to read that report.

Mr. Michael Prue (Beaches-East York): Okay, I'll read the report.

Your subcommittee on committee business met on Wednesday, July 19, 2006, and recommends the following with respect to Bill 89, An Act to amend the Child and Family Services Act and the Coroners Act to better protect the children of Ontario, and with respect to Bill 120, An Act to require the Building Code and the Fire Code to provide for fire detectors, interconnected fire alarms and non-combustible fire escapes:

(1) That as per the agreement of the three party whips, the committee hold up to two days of public hearings on Bill 89 on Tuesday, August 29, and Wednesday, August 30, 2006, in Toronto and one day of clause-by-clause consideration on Friday, September 1, 2006; and one day of public hearings on Bill 120 on Monday, August 28, 2006, and one day of clause-by-clause consideration on Thursday, August 31, 2006.

(2) That all meetings will start at 10 a.m.

(3) That the committee clerk, with the authority of the Chair/Vice-Chair (as appropriate), post information regarding the committee's business on the Ontario parliamentary channel, the committee's website and one day in the Globe and Mail, the Brantford Expositor, the Hamilton Spectator and the Burlington Post. The one ad will include both bills.

(4) That interested people who wish to be considered to make an oral presentation on these bills should contact the committee clerk by 5 p.m., Monday, August 21, 2006.

(5) That on Monday, August 21, 2006, after 5 p.m., if there are more requests received than spaces available for Bill 120, the committee clerk supply the subcommittee members with a list of requests to appear received for Bill 120.

(6) That on Monday, August 21, 2006, after 5 p.m., the committee clerk supply the subcommittee members with a list of requests to appear received for Bill 89.

(7) That if there are more requests received than spaces available, each of the subcommittee members supply the committee clerk with a prioritized list of the names of witnesses they would like to hear from by 5 p.m., Tuesday, August 22, 2006, and that these witnesses must be selected from the original list distributed by the committee clerk to the subcommittee members.

(8) That the committee clerk, in consultation with the Chair/Vice-Chair (as appropriate), be authorized to schedule witnesses from the prioritized lists provided by each of the subcommittee members.

(9) That if all groups can be scheduled, the committee clerk, in consultation with the Chair/Vice-Chair (as appropriate), be authorized to schedule all interested parties and no party lists will be required.

(10) That late-comers be accommodated on a first-come, first-served basis as long as there are spaces available for Bill 89 and Bill 120.

(11) That groups and individuals be offered 20 minutes in which to make a presentation on Bill 120.

(12) That the two families be offered one hour each to make a presentation on Bill 89. Additional time may be added at the call of the Chair.

(13) That individuals be offered 20 minutes and groups 30 minutes in which to make a presentation on Bill 89.

(14) That the Chair have the flexibility to add time to the presentations on Bill 89.

(15) That the Ministry of the Attorney General be invited to make a presentation to the committee on Bill 89 regarding supervised access.

(16) That the deadline for written submissions be 5 p.m., Monday, August 28, 2006.

(17) That a deadline (for administrative purposes) for filing amendments (as per the agreement of the three party whips) be Tuesday, August 29, 2006, 12 noon for Bill 120 and Thursday, August 31, 2006, 12 noon for Bill 89.

(18) That Mr. Jackson and Mr. Prue each make a five-minute opening statement on the day of clause-by-clause of their bill.

(19) That the research officer update the paper on supervised access for Bill 89.

(20) That the research officer prepare a comparison of other jurisdictions in Canada for Bill 120.

(21) That the research officer prepare a summary of the testimony heard.

(22) That the clerk of the committee, in consultation with the Chair/Vice-Chair (as appropriate), be authorized, prior to the passage of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

The Chair: Thank you very much, Mr. Prue. Members of committee, with that report, can I get a mover?

Interjection.

The Chair: Oh, sorry. Mr. Prue moves it by virtue of having read it. Thank you. Can I get a seconder? Mr. Levac. Thank you very much.

All those in favour? Any opposed? Okay, that one's carried. Thank you very much.

FIRE PROTECTION STATUTE LAW AMENDMENT ACT, 2006

LOI DE 2006 MODIFIANT DES LOIS EN CE QUI A TRAIT À LA PROTECTION CONTRE L'INCENDIE

Consideration of Bill 120, An Act to require the Building Code and the Fire Code to provide for fire detectors, interconnected fire alarms and non-combustible fire escapes / Projet de loi 120, Loi exigeant que le code du bâtiment et le code de prévention des incendies prévoient des détecteurs d'incendie, des systèmes d'alerte d'incendie interconnectés et des sorties de secours incombustibles.

CANADIAN AUTOMATIC SPRINKLER ASSOCIATION

The Chair: We'll begin now with the presentations, the first presentation on Bill 120, and I welcome to come to the end of the table here Matthew Osburn, code and technical services manager for the Canadian Automatic Sprinkler Association.

Welcome, Mr. Osburn. Have a seat and make yourself comfortable. You have 20 minutes allotted. If you don't use your full 20 minutes, we will be having an opportunity for the members of committee to ask any questions or for clarifications of your comments. So welcome, and thank you for coming to speak to us.

Mr. Matthew Osburn: Great. Thank you very much. Good morning, Chairperson Horwath and members of the committee. My name is Matthew Osburn. I'm the technical codes manager at the Canadian Automatic Sprinkler Association. I want to thank the committee for the opportunity to attend this meeting this morning and the opportunity to share our thoughts on Bill 120.

The Canadian Automatic Sprinkler Association is a national trade contractors' association and has been in place in one form or another since the 1920s. Our association's mandate is "to enhance the level of life safety and property conservation from the effects of fire through the use of fire sprinklers." Our membership consists of contractors, manufacturers-suppliers and design professionals from across Canada.

I would like to recognize and thank the member from Beaches-East York, Mr. Prue, for bringing forward and addressing the need for better fire safety measures in Ontario. On behalf of the Canadian Automatic Sprinkler Association, I am pleased to offer our support in favour of Bill 120.

On January 14, 1999, a horrific fire occurred in the area of Beaches-East York that tragically claimed the lives of Ms. Linda Elderkin and Mr. Paul Benson. The Canadian Automatic Sprinkler Association would like to offer our deepest sympathies to the families of Ms. Linda Elderkin and Mr. Paul Benson. This tragic fire resulted in a coroner's inquest that was conducted and completed in 2000. As a result of the investigation, a series of recommendations were made that would hopefully help prevent any future tragedies due to fire.

To the member's credit, two of the recommendations made by that coroner's inquest appear in Bill 120: the requirement for fire detectors in all public corridors and common areas of the building and interconnected fire alarms that are audible throughout the building and, secondly, every fire escape to be constructed of non-combustible material.

The Canadian Automatic Sprinkler Association supports these recommendations and strongly supports the use of fire alarms, smoke alarms and fire detectors to provide the occupants with an early warning system to safely evacuate the building.

The Canadian Automatic Sprinkler Association believes that a fire alarm or early warning system is only one integral part of a complete fire safety system. It is our opinion that a complete fire safety system should include both an early warning system, such as smoke alarms, fire detectors and fire alarm systems, and also an active suppression system, such as a fire sprinkler system. Statistics from the National Fire Protection Association have shown that a building occupant is 82% more likely to survive a fire if an active fire alarm and fire sprinkler system are present.

1010

I would like to point out that the third recommendation made by the coroner's inquest into this tragic fire was to require a part of the building to be partially sprinklered, with a single sprinkler head located outside

and above entry doors and in all common areas. The rationale given in the coroner's report was that sprinklers may have made a difference in the early stages of the fire.

The Canadian Automatic Sprinkler Association can understand these recommendations that a partial sprinkler system be required, due to the tragic results of this fire. Our association, however, does not support the use of a partial fire sprinkler system, as recommended in the coroner's inquest findings. Our recommendation would be to install a residential sprinkler system in conjunction with the proper standard, these being NFPA 13D, 13R, and 13. With the proven technology in the fire sprinkler industry available today, it would be advantageous to the building owner and occupant to have the entire residence fully sprinklered. Never before has a residential sprinkler system been more affordable or easy to install in a new home. On average, the cost to install a residential fire sprinkler system in a new home is approximately 1% to 1.5% of the total value of the home. This is comparable to the cost of a carpet upgrade or kitchen cabinet upgrade.

A fire sprinkler system has the ability to respond to a fire during the early stages. Only the sprinkler head closest to the fire will automatically activate, helping suppress and control the fire until the fire department can arrive. At the same time that the single sprinkler head activates, an audible alarm automatically operates, providing the building occupants with an early warning system, thus allowing them a safe means of evacuating the building.

Since 1990, over 30 communities in the lower mainland of British Columbia, including the city of Vancouver, have had a mandatory residential sprinkler ordinance. Presently, there are over 200 jurisdictions in North America that have a residential sprinkler ordinance in place. During this time frame, there has never been an accidental multiple loss of life in a residence where a residential fire sprinkler system was present and fully operational.

Unfortunately, there is no way of accurately predicting where and when the next fire will occur. Fire does not discriminate against whom it will strike next. It affects all walks of life: the young, the old, the rich, the poor, the healthy and the sick. It does not recognize creed or colour. Unfortunately, its wrath and fury will continue in the future. Sadly, fire kills approximately 100 innocent people and injures thousands more each year in Ontario. Whether it be the loss of a home or, in the worst circumstance, a loved one, fire will continue to impact Ontarians on a daily basis. The only way to adequately protect building occupants from fire is to require an early warning detection system in conjunction with an automatic suppression system.

Bill 120 will definitely help increase the level of fire safety for Ontario citizens. The recommendations made in Bill 120 will provide more Ontario citizens with an adequate early warning system and will hopefully allow those Ontario citizens a safe means of evacuating their homes in the event of a fire.

The Canadian Automatic Sprinkler Association believes the only way to truly protect Ontario citizens from fire is to incorporate a complete fire protection system. The use of an early warning detection system in conjunction with an automatic sprinkler system is the only proven method that can both notify the building occupants in the event of a fire and actively suppress the fire until the fire department can arrive.

The Canadian Automatic Sprinkler Association recommends that Bill 120 be modified to include the requirement of a fire sprinkler system per NFPA standards.

The Canadian Automatic Sprinkler Association commends the member from Beaches-East York for bringing forward such an important bill to the Ontario Legislature. Mr. Prue should be congratulated for his continued efforts to help improve the level of fire safety for Ontario citizens.

The Chair: Thank you very much, Mr. Osburn. I believe there are still seven or eight minutes left of your time, so I'll now turn it over to the committee to see if there are any questions or comments. I'm assuming that's the completion of your—

Mr. Osburn: Yes, it is.

The Chair: Okay, great. Are there any questions or comments from the committee? Mr. Prue and then Mr. Levac.

Mr. Prue: You've correctly pointed out that it would cost 1% to 1.5% to fire sprinkler a new home, and I am in complete agreement. Mrs. Jeffrey has put her private member's bill forward, and I spoke to it and support it.

A question, though, arises. Can you give us any indication—and I know this will be very difficult, because there are so many different types of buildings—of how much it will cost to sprinkler, say, an average 10-unit apartment building in Ontario that's 50 or 60 or 100 years old?

Mr. Osburn: Yes. I don't know if I could accurately give you a number. My estimations would probably be that you would be looking at double to triple the amount if you were to install it in a new building. Yes, the cost is going to increase.

Mr. Prue: So it would probably be 4% to 5% of the cost of the building.

Mr. Osburn: Correct. That would probably be a proper range.

Mr. Prue: So on a million-dollar building, you're looking at—I'm trying to put the right number here—\$50,000?

Ms. Osburn: That's correct.

The Chair: Thank you, Mr. Levac.

Mr. Dave Levac (Brant): Just for clarification: In our packages, we received a package from Vipond. Is that an example of a private company that provides the service that you're talking about?

Mr. Osburn: Yes.

Mr. Levac: So that package would give us the education about what sprinkler systems are all about?

Mr. Osburn: Yes, it should.

Mr. Levac: Okay. Second question: You said it's the only proven method at the very end of your presentation. That's as of today?

Mr. Osburn: That's correct.

Mr. Levac: That's not assuming that any other modern technological advancements step forward.

Mr. Osburn: No. That's as of today. I wanted to make the point that there is no other system that can both send an alarm and suppress a fire at the same time.

Mr. Levac: Speaking specifically to Bill 120, your recommendation is that there be an addition that includes sprinkler systems versus any changes to Bill 120.

Mr. Osburn: Yes, that's correct.

Mr. Levac: Bill 120—Michael, you can help me with this—prescribes to the building code technical requirements. That's unique. Are there other ways which you're familiar with that either a sprinkler system or the improvements to the issue that Mr. Prue is talking about can be done within the building code or the fire code?

Mr. Osburn: I'm not too familiar—I guess you could send a proposal through the building code process, but I'm not familiar.

The Chair: Thank you, Mr. Levac. Mr. Martiniuk?

Mr. Gerry Martiniuk (Cambridge): As I understand your evidence—I mean, I understand it's a round-figure estimate—to retrofit a 10-unit older building, you estimate the price of \$50,000, which works out to \$5,000 per unit?

Mr. Osburn: That would be correct, yes.

Mr. Martiniuk: And is it fair to say that as the number of units decreases, the costs per unit would probably rise?

Mr. Osburn: Yes, that would probably be accurate.

Mr. Martiniuk: Thank you very much. That's a fair answer. You understand that landlords have the right to pass capital costs on to the tenants?

Mr. Osburn: Yes.

The Chair: Seeing that there are no other questions from the committee, I will say thank you very much for your presentation, Mr. Osburn. You can be sure that the committee members have heard what you've had to say, and I want to thank you for taking the time out to come to speak to us.

We will now ask if our next presenter is here. I think we're running a little bit early, which is kind of nice. Having said that, though, just to remind members—and I should have done this earlier—there are packages of material provided for you, including Mr. Osburn's comments as well as the next presenter's comments and the comments from the presenter for 11:10 a.m. as well. As members know, the people who bring written comments can have them copied and distributed as well.

THOMAS STEERS

The Chair: Is Thomas Steers available?

Mr. Steers, welcome. Make yourself comfortable at the end of the table. Thank you very much for coming to make a presentation to committee this morning on Bill

120. As you've seen from the previous presenter, you have 20 minutes for comments to committee. If you leave some time after you've completed your comments, that will be divided up amongst committee members to be able to ask you any questions or clarification of your comments. Welcome, and you may begin when you're ready.

Mr. Thomas Steers: Good morning. First, I'd like to thank the committee for allowing me to make this submission and thank Michael Prue for introducing Bill 120, which is being considered today.

I'm here out of the conviction, based on a very personal experience, that this bill will save lives in our province, lives that will be lost needlessly in fires without the protection that the bill provides.

The bill is simple. First, it would require that every residential building in Ontario with two or more dwelling units be equipped with fire detectors in all public corridors and common areas. Then, importantly, the bill requires that the alarms be interconnected in a way that if one fire detector in a public area detects a fire, an alarm will sound that can be heard throughout the building. Second, it would ban wooden fire escapes by requiring all fire escapes to be made of non-combustible material.

1020

The reason I have such strong personal interest in this bill is that in January 1999 my girlfriend, whom I'd planned to marry, Linda Elderkin, died in a fire in the city of Toronto. The provincial coroner's jury looked into Linda's death in a formal inquest. Linda died in that fire and another person, Paul Benson, also died. They made a number of recommendations to the Ontario government in June 2000. I've waited six years to see these jury recommendations acted upon. I've written letters, Michael Prue has written letters, I've asked for meetings, and the result has been absolutely nothing—no action. In that time, over 500 people in this province have died in fires.

Key among the coroner's jury recommendations was that there be legislation requiring interconnected fire detectors and alarms that can be heard throughout a residential building to warn residents of fire. Another was that fire escapes be made of non-combustible material. The coroner's jury considered these two recommendations key. They made their recommendations based on testimony and other evidence of what happened in Linda's building on the night that she died.

Early in the morning of January 14, 1999, a fire broke out at 2362 Queen Street East in Toronto. Based on the fire marshal's investigation and the coroner's inquest, it's believed the fire began in the apartment immediately below Linda's. She lived on the top floor of a four-storey building, an older apartment building. The fire marshal's investigation and inquest testimony revealed that none of the residents who ran from the building that night pulled the fire alarms in the building hallways—the pull alarms. The coroner's jury said that one lesson from this tragedy is that an automatic system to alert residents of a building fire is absolutely necessary. Residents of a burning build-

ing cannot be depended upon to alert others. In some cases fires, perhaps of an electrical origin, can break out in vacant apartments.

By the time Linda awoke and became aware of the fire, it was too late. The stairway that led down to the street was fully engulfed in flames—the interior stairway. City of Toronto fire personnel who tried to rescue her were met with a fire so hot that their visors began to melt, and they suffered burns through their protective clothing.

Had a system of interconnected fire detectors and alarms of the type called upon by Bill 120 been present in Linda's building, she would be alive today. Experienced fire personnel have told me how critical even minutes can be in a fire, minutes that can make the difference between life and death, between time to escape and an inferno. Mere minutes can be all that it takes for a flashover situation to occur in a fire that makes rescues virtually impossible.

The only other way out of the building for Linda that night was the rear fire escape. This fire escape, however, was made of wood. Firemen who ran to the rear of the building found the fire escape fully engulfed in flames, unusable. It should not be necessary in the 21st century to argue against wooden fire escapes or fire escapes made of other combustible material. It's incredible and inexcusable that the law does not prohibit them. I submit to you that it's also shameful that it hasn't been acted upon. How many other deaths must occur before the situation is addressed? What compelling arguments must be offered to correct such a glaring weakness that can be so easily remedied?

This morning I must also argue, as strongly, that the province's failure to require fire detectors and alarms in the public areas of all multi-unit residential dwellings that are interconnected, and that can provide an audible warning to residents, is just as outrageous. This legislative omission is equally dangerous but also easily remedied. With today's technology, wiring a building with such a system to protect and save residents' lives is not much more expensive than wiring buildings for cable access. I know because I've looked into it. Given that such costs can be legally transferred to tenants, what right-minded, prudent landlord would not want such protection, both for tenants and for himself or herself? What insurance company would not consider this desirable? Most relevant is, what legislator would not want this protection for their constituents?

What do we say to Ontario residents, "We must still study these simple things before safeguarding you and your children"? What do we say to the dead and those who grieve for them, "Accidents happen and we must not offend building owners"?

The current legislation in regard to fire escapes and interconnected fire detectors and alarms is inadequate, poorly drafted, overly complex, contradictory, and broadly interpreted by the Office of the Fire Marshal generally in favour of landlords. Were it not so, Linda Elderkin and Paul Benson, as well as many others, I believe, would not be dead. Linda died waiting for help and she died a

horrible, terrifying death. Bill 120 will not save her, but it can save many other people.

My hope is that in the future no one will have to die like Linda did. I'd also hope that no one would go through the experience that I did, the pain being made all the worse because I know that the death was preventable. I've spoken with the firemen who tried to save Linda that night and they told me no one should have died in that fire. So little could have made so much of a difference.

With the protection Bill 120 provides, residents will receive a life-saving warning alarm, allowing them to flee burning buildings. With residents safely out of buildings, fire personnel will not have to put their lives at risk trying to save trapped individuals. This bill will provide protection to some of our province's most vulnerable citizens, those who live in older, smaller apartment buildings: young families, the aged, new immigrants, the poor.

Linda was a compassionate, loving person; a talented artist; a joy to everyone who knew her—and someone who died long before her time.

I would ask that you support Bill 120. Life is too precious to be lost needlessly, and it's time for the Ontario Legislature to act. Thank you.

The Chair: Thank you very much, Mr. Steers. We have about 12 minutes or so, which would give us about four minutes for each party if they want to make some remarks. I'll start with the government side.

Mr. Levac: It usually rotates to the next—

The Chair: Yes. Actually, Michael started. Thank you. Mr. Craitor.

Mr. Kim Craitor (Niagara Falls): First of all, thank you very much, Mr. Steers, for a very personal presentation. Certainly on behalf of the government, and on behalf of myself just as an individual, I want to offer you my condolences. I know it must be very difficult to be sitting in front of us and having to make this kind of presentation, knowing what has happened and what you're going through.

There are just a couple of things. First, there's always room for improvement with anything a government does. It's certainly what we've been looking at. I want to commend my good friend Michael for bringing this forward.

I just want to share a couple of things with you that I think indicate that the government truly does care. I think all of us at Queen's Park, regardless of what party we belong to, truly do care and we want to make safety, and fire safety in particular, important.

To tell you a really quick story, the other day I was at the opening of a park in Niagara Falls, Empire Park. It's a park that was going to be closed and we saved it. The reason I tell you this is because part of the event of the opening of the park was having the fire department there. They were all there, giving out colouring books and educating the kids in particular about fire safety, what to look for and how to prepare yourself. So even at the local level, those are things that we put forward to try to educate people about fire safety.

I want to quickly mention to you that there are a couple of things that we've done and I just want to share

them with you. In December 2005, we announced an amendment to the Ontario fire code to require working smoke detectors on every storey of a home. One of the other things we did was, in March of this year we provided about \$30 million to local fire departments across Ontario as part of an initiative to provide more funding for training and for equipment. Those are all positive things.

I'm just saying to you that your presentation is great. There's always room for improvement, and that's what your presentation is asking for. So I just want to say thanks a lot for taking the time.

1030

The Chair: Any further comments? Mr. Martiniuk.

Mr. Martiniuk: I'd merely like to express condolences for your loss. I'll cede the rest of my time to Mr. Prue.

The Chair: Thank you very much. Mr. Prue.

Mr. Prue: There are just a few things that I'd like the committee members to know. I've known Tom for quite some time.

You attended all of the coroner's inquest. How many days or weeks did that inquest last?

Mr. Steers: It was approximately one month.

Mr. Prue: How many citizens were on the jury?

Mr. Steers: Twelve.

Mr. Prue: So 12 citizens sat down and they came up with 28 recommendations, some of which have been enacted. But these two have not. What have you done over the last six years to try to get them enacted? Whom have you met with? I know you've met with ministers; you said so. Can you tell us whom you've met with or tried to meet with and what the results have been?

Mr. Steers: I had tried to meet with Monte Kwinter. I had tried to arrange a meeting through Michael Prue's office. I had written letters, and there were no responses.

Going back to the coroner's jury inquest recommendations, they went out of their way to say that these two recommendations embodied in Bill 120 were the thrust, the heart, of what they believed would have saved lives in this fire. It's just an absolute non sequitur that there be wooden fire escapes.

On the interconnected smoke alarms, in essence the situation is this—and I'm not a technical person. Imagine that you're on the top floor of a four-storey building and the apartment on either the second floor or the third floor goes up in flames. It's the middle of the night. Perhaps that apartment is vacant and it's an electrical fire. You simply won't know in time. The fire will progress to the point where very possibly the hallway will be blocked with fire. That was the case in the Queen Street fire. If the fire escape in the back is made of wood—and these buildings are throughout Ontario, southern Ontario as well as northern Ontario, many existing in the Beaches area, many existing in northern towns that I've visited. With these two situations, you have the formula for a death, and it's as simple as that. You have the power to do something about it.

Some people will say that there's a cost factor. Yes, there is. There's a cost factor with seat belts. There's a cost factor with safety devices in factories. What's the difference between a human life and paying to replace a wooden fire escape or a simple wiring job that costs as much as wiring a building for high-speed Internet access or cable? This will pay dividends in human life.

Mr. Prue: You said that you've investigated the cost of wiring a building for cable. Can you give us an indication of how much one would have to spend? I know to put cable into my house—I guess I paid the bill, but it didn't seem to take very long.

Mr. Steers: In the companies that I've contacted in the area where I live, to wire a building like Linda's building would have been in the area of as low as a couple of thousand dollars. The costs can be transferred to tenants. I can't imagine any tenant strongly objecting to having a wooden fire escape replaced or to having interconnected smoke alarms so that if someone else's apartment is blazing, they receive enough notice simply to get out of the building.

It's the critical minutes here that are at issue. From what fire personnel have told me, the period of time from the beginning of the fire to flashover can be as little as five to six minutes in some fires. So those five or six minutes are the difference between life and death.

Mr. Prue: You said—and I think the committee members understand this—that the cost of retrofitting a building can be passed on to the tenants. Have you ever spoken to any tenants or any tenants' associations that would be opposed to paying? This would be a dollar a month or a couple of dollars a month on their rent to ensure safety.

Mr. Steers: I've never met anyone who would be opposed. I have spoken to the people who lost their homes at 2362 Queen Street East, and they certainly would have been supportive of fire escapes that didn't burn or interconnected smoke and fire alarms.

Mr. Prue: Thank you.

The Chair: Thank you, Mr. Steers, once again, for coming and sharing your pain with us and your story. We very much appreciate you coming here to speak to us today.

TORONTO FIRE SERVICES

The Chair: Our next presenter is the city of Toronto Fire Services, represented by Frank Lamie, the deputy fire chief.

Deputy Chief, are you ready for your presentation? Welcome. Thank you very much for coming. Make yourself comfortable. As you've observed, you have about 20 minutes. If you leave any time at the end of that, in a rotation, the members of committee will be able to ask you some questions. So again, thank you for coming to speak to us this morning, and the floor is yours.

Mr. Frank Lamie: Good morning, Chairperson Horwath and members of the committee. It is my pleasure to address the committee this morning on behalf of

Toronto Fire Chief William Stewart regarding our support of Bill 120. My name is Frank Lamie. I'm the deputy fire chief for fire prevention and public education in the city of Toronto Fire Services.

We would like to express our thanks for giving us the opportunity to speak to this important life safety issue for the citizens of Toronto and Ontario. We also wish to thank Mr. Michael Prue, MPP for Beaches-East York, for introducing this bill. Mr. Prue has been a long-time supporter of fire safety in the community. As mayor of East York, councillor for the city of Toronto and now MPP, Mr. Prue's leadership to improve fire safety in the province of Ontario is demonstrated through this bill. Mr. Prue understands that the main goal of the fire service is to stop loss of life due to fire.

The measures that will be implemented when the bill is passed into law are steps to help reach this goal in residential buildings. We also appreciate the support of the members who passed this bill through first and second readings.

In the 10 years from 1994 to 2004, the city of Toronto lost 259 citizens to fire. Of these, 223—or 88%—were in residential buildings. The fire service considers this totally unacceptable. We consider the provisions of this bill will make the residential buildings safer for the occupants and for firefighters. Not nearly as important, I would like to mention, however, that during this same time period, residential fires in Toronto resulted in property losses valued at over \$263 million.

The message of the fire service historically has been to prevent fires from happening in the first place. We know this is not always possible, so we go on from there with efforts that will prevent deaths when the fire does happen.

All fire prevention efforts are based on what I call the three E's: engineering, enforcement and education. The province of Ontario has recognized engineering through the building code, it has recognized enforcement through the fire code, and it has recognized public education through the Fire Protection and Prevention Act.

Part of public education is to teach the public how to plan an escape route and how to react in a fire emergency. However, the best plans and education cannot be implemented if the fire is not detected in an early stage and the building residents are not warned of the emergency.

All residential units require smoke alarms to be installed on each floor level. A smoke alarm, when activated, warns the residents of that sweep. The measures required in Bill 120 will enhance early detection and provide early warning to all building occupants. Bill 120 will also provide an alternate escape route that can be part of the residential fire escape plan. The main advantage of early detection and early warning is to allow building occupants to get out of the building when the fire is small.

A second issue that is not widely known is that of flashover. Flashover occurs when the temperature in a room reaches a point where the gases and materials in the

room simultaneously ignite. Temperatures can jump to 2,000 degrees in seconds, and the room is engulfed by flame.

Flashover is not something new; however, it is something seldom experienced even by firefighters, say, 40 years ago, as our homes were then furnished with natural materials that would take some time to build heat to a point where flashover would occur. Today, every home has a very large amount of plastics and other synthetics that produce very large amounts of heat when they burn. This has reduced the time between free-burning fire and flashover to between 2.2 and 4.3 minutes, making early detection and warning even more important. Flashover can kill fully protected firefighters, let alone an unprotected occupant.

1040

The fire service is also advocating installation of automatic sprinklers in all residential properties. This bill does not include residential sprinklers. However, I would like to point out that automatic sprinklers can prevent flashover. Also, automatic sprinklers are related to the bill as they can be used as the detection device the bill requires. The sprinkler system can be connected to an alarm system that will sound the warning to residents when the sprinkler system is activated. When activated, automatic sprinklers will keep the fire in check to allow residents more time to escape and they will prevent flashover in almost every case. We consider residential sprinklers the next logical step in best practices for fire safety. As a large majority of fire deaths and injuries occur in residential buildings, fire protection measures that target residences have a great potential to save lives.

I would like to thank you for the opportunity to express our opinions and concerns and I encourage you to support the passing of Bill 120 into law.

The Chair: Thank you very much, Deputy Fire Chief Lamie. I appreciate your being here. We have about 14 minutes left, leaving just a little over four minutes for each of the parties, starting with Mr. Martiniuk.

Mr. Martiniuk: Thank you very much for your presentation. I'm just curious, if you would advise: What is the present status of new construction? How many units are required before they require sprinkler systems?

Mr. Lamie: No residential unit requires a sprinkler system now in new construction.

Mr. Martiniuk: None?

Mr. Lamie: None.

Mr. Martiniuk: Even high-rise?

Mr. Lamie: No, sir. Not residential high-rise. Office buildings require them. This building requires them.

Mr. Martiniuk: Why does this building require them?

Mr. Lamie: Well, it's been retrofitted, I'm sure, because of the age of it, but this is basically an office building and an assembly building, and they're required under the building code when they're newly built.

Mr. Martiniuk: Of course, I reside in a high-rise in Toronto and I note that it does have interconnecting—but it does not have a sprinkler system.

Mr. Lamie: It doesn't have a sprinkler system in the residential areas. In your suite there is no sprinkler head.

Mr. Martiniuk: Thank you.

The Chair: Mr. Prue, do you have any questions?

Mr. Prue: I have the Ontario fire code here. It's highly complex. The fire escapes can be made of combustible materials. Now, this is not unique. I thought it was unique to Ontario, but legislative counsel has pointed out that it's commonplace in other provinces as well.

Mr. Lamie: I can't speak for the fire marshal's office. In the late 1980s, the government passed the fire code into law, and that code provided for maintenance of fire systems that were in buildings. The code at that time also had a section that was empty, part 9, for retrofit. In 1991-92, part 9.8 and 9.9 were passed into law as a regulation under the fire code, and they were for the retrofit of low-rise and high-rise residential buildings. This is the section that includes the provision for wooden fire escapes, which Mr. Prue was speaking of. Also, shortly after that, after a tragic rooming house fire on Rupert Street in Toronto, a section was passed into law requiring rooming houses, which are buildings with 10 or fewer apartment units—and that also allowed for wooden fire escapes. Again, I can't speak for the fire marshal's office and why they allowed wood, but my opinion is that it was a cost-saving measure, because when the retrofit is first put into place, there are many things that a building owner must do to meet those requirements. So that would be a cost-saving measure compared to a steel structure for sure.

Mr. Prue: We read, tragically, of firefighters losing their lives quite often: flashover, but also I guess just attending ordinary fires when rooms collapse; escape routes. You know that this bill would save residents' lives. Would it also save firefighters' lives and injuries?

Mr. Lamie: I believe it would. In the Queen Street fire it was tragic that we had the loss of citizens. From a firefighter's point of view, the fact that the fire escape was in flames when they arrived probably saved their lives. If they had gone up through the structure and then had to use that fire escape after it was burning, they likely wouldn't have been able to, so they would have been trapped inside as well. Flashover, as I mentioned, does injure firefighters but it can kill them as well.

Mr. Prue: Thank you.

The Chair: Thank you, Mr. Prue. The government side, any comments? Mr. Wong.

Mr. Tony C. Wong (Markham): I want to start by saying that certainly fire safety matters with respect to all buildings, whether they are new or existing ones, are important to the government. I want to commend my colleague MPP Michael Prue for addressing these concerns. There's no question in my mind that he has the best of intentions.

In general, Deputy Chief, it is more appropriate to implement these types of changes in the building code. Do you think that in this instance it's better to address these issues and develop these changes through the building code, which is the standard practice, as opposed to being prescribed by legislation?

Mr. Lamie: This particular bill, sir, is a retrofit provision, and that is under the fire code. The building code is for building new buildings and the fire code has the retrofit provisions for upgrading fire and life safety issues in existing buildings. So this bill is directed at the fire code so that it will upgrade those existing buildings.

The building code has a different process for implementing new requirements for new buildings. This is one that we're working on with the introduction of residential sprinklers.

The Chair: Any further questions or comments from the government side? Mr. Levac.

Mr. Levac: Yes, just a technical observation: Somebody's got either a cellphone or a BlackBerry sitting beside their speaker and that's what's happening. So if you've got a cellphone or a BlackBerry sitting up against your speaker—

Mr. Lamie: That's what does it at our fire academy too.

Mr. Levac: Not to take away the seriousness of the topic, but that's where that buzz is coming from.

Just in terms of your mentioning the fire code and the building code, in the combination of the building code and the fire code, we end up with the best possible practices that we can have: the upgrade in 2006 in the recommendations for the changes in the building code. In other words, there's an evolution in both the fire code and the building code as we proceed. But if there's any change in modern technology, then you'd have to come back to the Legislature, if we entrench this in law, versus putting it into the building code or the fire code. That means we can get a quicker response to any changes that are required. Would you agree that, with consultation with the fire marshal's office and all of the stakeholders, putting the changes that are recommended by Mr. Prue inside of the fire code and the building code would be a more appropriate way to do this if—and I use the word very carefully—those types of changes would accomplish the same intent that Mr. Prue is asking for?

Mr. Lamie: In my understanding of the building code cycle right now, it would not be enacted for six years. That's a concern for us—another six years without it, of course.

Speaking directly to the wording of the bill, though, in my opinion it's worded broadly enough that it just speaks of detection and interconnection of warning devices and fireproof means of egress. Any new technologies that came along would still fit into that. As I mentioned, a sprinkler system that has been around for over 100 years can be used as a detection device and meet this bill. That's the old technology that's in there, but there are also electronic devices that can be used as the detection device interconnected to the alarm system to sound the alarm and give warning to the occupants.

Mr. Levac: Good. Thank you. Coming back to that point inside of your comment that the sprinkler system could apply what Mr. Prue is looking for in the detection component—I'm not sure if he agrees or not; I haven't gotten a signal from him, and I'd like somewhere down

the line to see if the sprinkler system being used as that component would satisfy him—that satisfies the detection component to what you're saying and also includes in itself the approach to suppression. Can I ask, if that were used as part of an amendment to complement that, would that satisfy your concerns regarding suppression and detection and safety?

Mr. Lamie: It would certainly help.

Mr. Levac: In a previous presentation, that comment was made as well.

Mr. Lamie: Yes, it would certainly help. Can I make one comment too? The sprinkler system can also satisfy the requirement for the alarm to all the residents, because when water flows in a sprinkler system it activates a switch, and then that alarm can be sent to the alarm-sounding devices so that they sound out through the building. So the sprinkler system can be used as both of those components when it's properly installed.

Mr. Levac: Would that be part and parcel of the other component of Mr. Prue's bill, which is the simultaneous hallway alarm?

Mr. Lamie: Yes, sir. That's what I'm speaking of, yes.

The Chair: Thanks very much, Deputy Chief Lamie. We really appreciate you being here and giving us your wisdom on this issue.

Mr. Lamie: Thank you.

1050

ONTARIO MUNICIPAL FIRE PREVENTION OFFICERS' ASSOCIATION

The Chair: Next we have Brian Maltby, who's a member of the Ontario Municipal Fire Prevention Officers' Association. Mr. Maltby, thank you for joining us. Again, you'll have about 20 minutes, and of that, if you leave some time at the end, members of the committee will be able to ask you for questions, clarifications and comments. So go ahead. Thank you.

Mr. Brian Maltby: Good morning, Chairperson Horwath and members of the committee. My name is Brian Maltby and I'm division chief of fire prevention and chief fire official for the City of Brampton Fire and Emergency Services in Brampton, Ontario.

I am before you here today as a member of the Ontario Municipal Fire Prevention Officers' Association. The OMFPOA has over 600 members from over 200 departments across Ontario, and we also include other fire-service-related organizations throughout the province. The OMFPOA plays a key role in providing fire prevention and fire safety education initiatives on both provincial and federal levels. We are regularly consulted on and participate in the development of codes, standards and other relevant legislation by organizations such as the Ontario Fire Marshal's Office, the Ministry of Community Safety and Correctional Services, and the Ministry of Municipal Affairs and Housing.

I am very pleased to participate in the dialogue about Bill 120 and tell the committee that the OMFPOA sup-

ports the fine work of the member from Beaches-East York, Mr. Prue. Mr. Prue is to be commended for his courage, determination, leadership and vision to act when he saw the need to improve fire safety conditions in the homes of the very people we serve. Good work and well done, Mr. Prue.

The OMFPOA goes on record as being in favour of Bill 120 and will work to ensure that the fire safety features of the bill serve Ontarians well. Fire safety is our business, and some may even say it's our passion. Bill 120 is about fire safety: fire safety for the public and fire safety for the firefighters who protect the public.

I'm here today to share my thoughts with you about fire safety. We in the fire service believe that fire safety is a balanced system approach that includes both active fire safety components and passive fire safety features. Our experience has taught us that in order to provide the optimum in fire safety, we cannot rely on any one fire safety component and that the formula to ensure that the people and firefighters are given the best odds to survive a fire in a home is to provide that balanced system about which I talked earlier.

Mr. Prue has done an excellent job in suggesting several modifications to our safety codes that would enhance the passive component of the fire safety system. Smoke alarms intend to notify the occupants of a building of a fire condition, and non-combustible fire escapes provide for an alternate means of escape. But I would argue that we have not done enough in the area of the active component of fire safety systems. I propose that Bill 120 be modified to include residential fire sprinklers, the next evolution in fire protection.

Flashover is a condition where everything in a room reaches its auto-ignition temperature and instantaneously bursts into flames. At one time, it was believed that flashover took place at about 11 to 12 minutes after the start of a fire. Now, with the highly flammable toxic materials that we find in homes, such as carpets, plastics, draperies, etc., flashover occurs much, much earlier than we ever anticipated. The Ontario fire marshal has recently distributed a video entitled "No Time to Spare," in which a flashover condition takes place in less than three minutes after the ignition of a fire. No one, not even the best-equipped firefighters, can survive flashover. Even the most modern, best-trained fire department cannot receive an alarm, dispatch the necessary fire vehicles, respond to the scene, set up their equipment and routinely be prepared to deal with a fire without posing a potential risk because of the flashover condition. Having residential fire sprinklers is like having a firefighter in every room in your house 24/7, and the deadly flashover condition can never occur because of the quick response of the sprinklers.

When Mr. Prue first introduced Bill 184, the predecessor to this bill, in the House, he talked very compassionately about the tragic deaths of Linda Elderkin and Paul Benson and how they died waiting to be rescued from their burning residence. I am very confident that had this building been equipped with a residential fire

sprinkler, Ms. Elderkin and Mr. Benson would have survived the events of that fateful morning.

Please allow me to tell you why I and many, many members of the fire prevention officers' association ask you to consider including residential sprinklers in Bill 120.

In 1993, a young mother collapsed in my arms after being told that her two babies had perished in a basement apartment fire. As I tried in vain to comfort this distraught mother, I could not help but think of my own family. It made her anguish so very real to me. For months after the fire, I would lie awake at night thinking about that young woman and her loss, about how her whole life had changed for the worse in a flash and about how these two young lives were snuffed out in such a horrifying manner.

Regrettably, this is a scenario that my fellow fire prevention officers experience, on average, 100 times per year here in Ontario. I believe the reason I'm having difficulty putting this tragic episode behind me is because I know that we have the technology we need to prevent this type of loss of life. What disturbs the membership of the OMFPOA the most is that while more than 230 jurisdictions across North America require residential sprinklers, none of these jurisdictions are here in Ontario. We feel frustrated, handicapped and handcuffed in our ability to help save lives. We have to ask why sprinklers are not mandatory here in Ontario. Do houses burn differently here? Is the fire service that much more effective here in Ontario? Do people die differently here? I think we all know the answer to those questions.

On September 21, 2000, in my hometown of Brampton, Ontario, pumper 205 was dispatched to a residential fire on McLaughlin Road. Upon arrival, the crew found the house fully engulfed. Luckily, all the residents were accounted for.

As First Class Firefighter Larry Brooks, a 19-year veteran career firefighter, stretched an attack hose line around the east side of house, the roof, the east wall and the block chimney collapsed, trapping Larry in the rubble. Larry's crew worked feverishly to pull Larry out from underneath that debris and for a while it was uncertain that Firefighter Brooks would survive his injuries. Larry, being the fighter that he is, did survive, but in the summer of 2004, after four years of trying to save Larry's left arm, the doctors finally had to amputate it.

Obviously, Larry will never return to work as a firefighter, the work that he loved. I ask you, do you think that Larry and his family contemplate the events of that tragic day and how it changed their lives? I know they do. And do you not think that we have an obligation to reflect on these events ourselves and realize that had that home been equipped with a sprinkler system, Firefighter Larry Brooks would still be doing the work that he so loved today and his life would not have changed so dramatically?

The members of the OMFPOA are professionals in fire protection. We have asked ourselves whether we've done enough to prevent many of these fatalities and

injuries. We know that the answer is, "Well, we've come a long way in fire prevention, but there's still much more work to do."

For example, in the 1970s, Ontarians were dying in fires at a rate of about 280 persons per year. Now the death rate is a little less than 100 persons per year. Much of the improvement in the death rate can be attributed to the legislation relating to smoke alarms. But the death rate of approximately 100 persons per year seems to have reached a plateau at that level. People are still dying at a rate that is unacceptable in the eyes of the OMFPOA. There is little doubt that smoke alarms save lives, but they don't save every life.

The Ontario fire marshal has reported that in the 609 fatal fires from 1995 to 2004, where the presence of smoke alarms could be determined, 35% of the time the smoke alarm sounded an alarm and many, many people still perished. According to the US Public/Private Fire Safety Council's white paper on home smoke alarms published in April of this year, "smoke alarms have problems of audibility in certain situations and problems with waking effectiveness for some people." Sprinklers, on the other hand, have a very, very high success rate because they are automatic and reliable and need no human interaction.

We need look no further than the city of Vancouver, where they've had a residential sprinkler requirement for more than 10 years. In Vancouver, there has never been an accidental fire death in a sprinklered residential building. That speaks volumes about how effective sprinklers are at saving lives.

I'm here to tell you that Bill 120 enhances fire safety and that residential sprinklers improve on the measures that Mr. Prue has introduced. In fact, the National Fire Protection Association reports that smoke alarms in combination with residential sprinklers improve survivability of a fire by 82% over having neither.

The membership of the OMFPOA and other fire service professionals understand that there's some resistance to residential sprinklers by many members of the building industry, but please remember that the builders own a home just until they sell it. A homeowner owns a home for an average of five to seven years. A community owns that home forever. As an important member of that community, the OMFPOA thinks that homes should be equipped with residential sprinklers.

One can't place a value on the cost of human life, especially when one tragically loses a loved one in a fire that could have been prevented by a proven life safety system like residential sprinklers. Our citizens rely on and expect life safety and building construction codes to provide a safe place for their families to live. We all realize most occupants are not that familiar with the safety code requirements and rely on safety professionals to make sure that the codes include the necessary requirements to keep their families safe. Fire service professionals are clearly saying that residential sprinklers should be one of those provisions included in our fire safety codes.

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Fire prevention offices, along with our fire service professionals, have been leading advocates for residential sprinklers because of their effectiveness in protecting the people they serve and our own firefighters. Day in and day out we see how fire sprinklers save lives and reduce property damage. We just need the people with the authority to make these changes to hear what we are saying about fire sprinklers and have the courage to effect those changes, people like Mr. Prue who understand that we can save the lives of people like Ms. Elderkin and Mr. Benson by amending the fire safety codes to include technologies of the day, including residential fire sprinklers.

I have a vision of a day when the people of Ontario are afforded the best fire protection possible and when each and every firefighter returns home to their loved ones each and every day. We have this technology to make it happen; we need to find the will. This committee can help make that happen.

A wise man once told me that the best time to plant a tree was 25 years ago; the second-best time is today. The best time to include residential sprinklers in the code would have been 25 years ago or more. I am quite confident that the young mother on Charles Street, and Firefighter Brooks and his family, all wished that the code development people had the foresight to include residential sprinklers in the design and construction of one- and two-family dwellings back then. The second-best time to install sprinklers is today.

I respectfully ask that you have the foresight and seize the day. We owe it to the people we serve and the firefighters who devote their lives to their safety.

I thank you for allowing me to speak here today and would be pleased to answer any questions you may have.

The Chair: Thank you very much, Division Chief Maltby. We appreciate your comments. We have about eight minutes left, so in rotation we can start with Mr. Prue this time, if you have any questions or comments, Mr. Prue.

Mr. Prue: Thank you very much for your presentation. The provision for sprinkler systems was in Mrs. Jeffrey's bills. We looked upon them together as companion pieces—one for older buildings, one for new buildings—in terms of not only the fire code but the construction and building codes.

There has been resistance from the construction industry. There has been resistance, sadly, from people who own multi-residential buildings—smaller ones, particularly—to the cost to retrofit with sprinklers. Any comment on those costs?

We heard a gentleman today say it would be 5%, probably, of the value of a building to put sprinklers into older buildings.

Mr. Maltby: I am one of those persons. I retrofitted my home, I believe in sprinklers so much. The cost that I have is about \$3 per square foot to retrofit an existing building, especially a one- or two-family dwelling. For me, that was a no-brainer. That was \$3,000 or \$4,000.

That's a no-brainer when you're talking about the lives and the value of the lives of the people I love the most.

Mr. Prue: I think so too, but some people who own the buildings say that this is a cost they're not willing to pay. Any idea—did your insurance costs go down for your house?

Mr. Maltby: Yes, they did. I was about to mention that there are savings that could be recognized through reduction in insurance premiums. It all varies, but I receive a 10% reduction in my home insurance because of residential sprinklers.

Mr. Prue: I would assume that people who own residential properties, who rent them out, would receive likewise.

Mr. Maltby: I would imagine they would.

Mr. Prue: Thank you.

The Chair: On the government side, any questions or comments? Mr. Craitor.

Mr. Craitor: First, I just wanted to share something with yourself. My colleague Tony Wong had mentioned the concept of, as opposed to going through an act, having this proposal maybe going through the building code. It was mentioned by the previous speaker, the deputy fire chief from Toronto, and he made reference to the fact that the building code is looked at every six years. The only point I was going to make is that the code itself is reviewed every six years, the entire code, and I was familiar with that, being a member of city council. So it is reviewed every six years, but every year the government has the right to put forward amendments to the building code or the fire code. In fact I was looking up some of my notes, and between 2000 and 2006, 20 packages of amendments were submitted and approved through cabinet, and we have another package coming forward. I didn't want you to comment; I just wanted to get that on the record.

The other comment I'm going to make is that, personally, I am a supporter of Mrs. Jeffrey's bill. In fact, I had the honour of speaking when she presented the bill to the House and I happen to personally believe in it and think people across Ontario do. Excellent presentation; you've convinced me that it's the right thing to do, so I thank you for that as well.

Mr. Maltby: Thank you.

The Chair: Mr. Martiniuk?

Mr. Martiniuk: We have before us—I'm a bit curious about the use of the code and the use of legislation. The letter before us from the Large Municipalities Chief Building Officials Group states, "The proposed legislation"—we're referring to Mr. Prue's Bill 120—"appears to circumvent the traditional process by pre-determining amendments to the respective regulations without the full benefit of consultation and review normally associated with amendments to the regulations governing construction and maintenance requirements." They seem to be saying that for some reason this bill circumvents the traditional method of approaching this. Now, keeping in mind that this bill is retroactive, is the code retroactive?

Mr. Maltby: Which code?

Mr. Martiniuk: The fire code, I assume.

Mr. Maltby: There is a retroactive provision in the fire code. Yes, part 9 of the Ontario fire code deals solely with retroactivity.

Mr. Martiniuk: So the code could be amended retroactively?

Mr. Maltby: Yes. It's done fairly regularly. As a matter of fact, there's a new section 9.9 that's coming out that retroactively deals with hotels, for example.

Mr. Martiniuk: And does the fire code regulate residential buildings, or could it?

Mr. Maltby: Yes, it does.

Mr. Martiniuk: And you're saying it could do it retroactively?

Mr. Maltby: Yes, it does. Yes, it could.

Mr. Martiniuk: Thank you.

The Chair: Thank you very much, Division Chief Maltby. We really appreciate your being here and thank you for bringing your comments to us today.

Mr. Maltby: You're welcome, and thank you.

The Chair: The agenda has next on it Terry Hewitson, who is the president of the Ontario Building Officials Association. Is Mr. Hewitson here? Mr. Hewitson is not here yet.

We are running a little bit ahead of schedule, so I had asked through the clerk whether Ms. Jeffrey might be interested in bumping, because she is here and is on the agenda later on at the end. With the agreement of committee members, Ms. Jeffrey has agreed to fill in if there is a vacant spot because of our time frame being earlier. Is that all right with everyone? Okay.

LINDA JEFFREY

The Chair: Ms. Jeffrey, thank you very much for coming. Please join us at the end of the table. I would say you know the shtick, having done this job yourself a couple of times.

Mrs. Linda Jeffrey (Brampton Centre): It's kind of fun being on this side, though.

The Chair: Welcome and good morning. Please go ahead and begin your comments. We'll be asking questions if there's time at the end.

Mrs. Jeffrey: Thank you, Chair and members of the committee, for allowing me the opportunity to appear before this committee. I had planned on being a cleanup hitter but I think you've heard some of the things that I will be talking about. I wanted to be here today to voice my support of Bill 120, the Fire Protection Statute Law Amendment Act, 2006.

I've only been a member of provincial Parliament since 2003, but I understand it's rather unusual for a member of the Legislature to sit as a deputant before a standing committee. But like the member for Beaches-East York, I too am passionate about fire safety in this province and I believe there is more that our province can do to save lives and property.

I'd like to join all the other speakers in congratulating the member from Beaches-East York for his vision. I remember the first time this bill was introduced, in April 2005. The predecessor to this bill was Bill 184, and I'm delighted to have an opportunity to again support this legislation, which is designed to save lives and protect what we all value most.

Fire kills over 100 Ontarians each and every year and injures many more, the overwhelming number at home. Fatal residential fires most often occur between the hours of midnight and 6:00 a.m., when people are asleep. Victims are disproportionately children and the elderly, who are vulnerable because they're less physically capable of escaping.

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A national study commissioned by Duracell and the Canadian Association of Fire Chiefs revealed that 48% of Canadians feel that they have almost no chance of being in a house fire. In fact, one in 10 Canadians has experienced a home fire and, sadly, the vast majority of deaths occur in people's homes, the very place people should feel the safest and have the greatest amount of control or influence. The study also found that while 64% of Canadians claimed to have a fire escape plan in place, 63% of those Canadians actually failed to practise their escape plan even once.

Despite mandatory smoke alarms and improved building construction, there hasn't been a substantial reduction in the number of deaths in over a decade. In the past, smoke alarms did make a difference in reducing the number of deaths in Ontario, but without a serious paradigm shift we aren't going to see a decline in those 100 annual deaths. The cost to our economy in health care expenses, property loss and, most importantly, the personal impact is in the hundreds of millions of dollars. Clearly, smoke alarms are simply not enough.

Bill 120 is a step in the right direction but, as you've heard earlier today, there's a proven and cost-effective solution that will save lives: residential fire sprinklers. The Ontario building code already requires fire sprinklers in places where we work, where we dine, where we pray, where we learn and where we shop, just to name a few. It is unfortunate that in the place that we should feel the safest, our home, we actually have the least protection.

Over 220 jurisdictions in North America have passed residential sprinkler legislation. You've heard earlier today that in 1990, Vancouver, British Columbia, became the first Canadian city to enact a residential sprinkler bylaw. Since its enactment, while there have been a number of deaths in homes that were unsprinklered, there hasn't been a single accidental fire-related fatality where a properly installed and functioning residential sprinkler was present.

Residential fire sprinklers are a proven, reliable technology that will respond quickly in a fire, thereby offering seniors, the disabled and our children additional time to escape. These systems have been a proven fire-fighting device for 140 years and have been used in residential applications since the 1930s. They save lives.

They reduce property loss and they can cut homeowners' insurance premiums.

For more than 25 years, nearly a dozen coroners' juries and inquests have recommended changes to the Ontario building code to include residential fire sprinklers. In fact, there have been at least 19 times when the Ontario building code has been amended outside the code cycle. When it makes sense, and in this case saves lives, I believe the code should be amended.

A report by CBC Marketplace broadcast in June 1990 reported that one third of smoke alarms fail to go off in an emergency. People just don't maintain them. One of the most crucial precautions to surviving a fire is having a working smoke alarm. Only 28% of Canadians surveyed had replaced the batteries in the alarm twice; 19% admitted to never having replaced their batteries. Frequently, smoke alarms aren't functioning and receive little or no maintenance to ensure they're working.

Canada has one of the highest rates of fire deaths in the world, and almost 80% of them happen at night. Many people mistakenly think the smell of smoke will wake them up. Fire alarms cannot protect you from fire, and often a fire is out of control by the time people in a residence are warned by a fire alarm. A fire doubles in size each minute, so that first two or three minutes are critical. By the time a parent realizes their house is on fire, it's too late to save the children. By the time you realize there's a fire, it may be too late to save an elderly parent.

The age group of 65-plus constitutes 25% to 30% of fire fatalities in Ontario every year. This demographic is getting older and they're having more difficulty hearing a working smoke alarm. As well, their reaction time is usually slower. The installation of residential sprinklers would allow seniors to remain in their homes longer and enhance their quality of life.

I recently read a frightening article written by Jen Horsey of the Canadian Press. She wrote:

"A recent surge in concern over the way children react to smoke alarms has the key Canadian standard setter considering changing the rules that govern the devices.

"Children don't necessarily hear the smoke detectors,' Gina MacArthur, a spokeswoman for the Canadian Hearing Society, said ... after a meeting with experts and Underwriters Laboratories." That's the group that sets the standards for smoke alarms in Canada. "There are few scientific studies into children's responses to smoke detectors, but experts agree that kids may be less responsive than adults when an alarm sounds.

"Fire officials universally cite horror stories of frightened children crawling into closets"—or going under their beds—"to hide from smoke and the noise of the alarm....

"Fire prevention officer Derrick Ethridge investigated the issue after children in his eastern Ontario community of Loyalist township suggested the alarms wouldn't wake them.

"He teamed up with Queen's University ... and sent 222 questionnaires to grade 6 students asking their

parents to conduct night fire drills and record their responses....

"Thirty-two per cent ... didn't wake to the initial sound of the alarm at all; 53% didn't wake during the crucial first minute.

"Smoke alarms are required to sound at a standardized level of 85 decibels at a distance of three meters—roughly equivalent to the volume of a garbage disposal at close range.

"But even alarms that meet that standard failed to wake some children....

"Sleep experts suggest the poor response could be due in part to the way kids sleep.... Dr. Shelley Weiss, a pediatric sleep expert at the Toronto Hospital for Sick Children, notes that 'children spend more time in the deep, dreamless phase of sleep, so even a blaring smoke alarm won't always wake them.'"

This study should frighten every parent. Parents need to realize that children won't necessarily hear a smoke alarm, and if they do, they won't necessarily respond to it appropriately. In other words, if you rely on a smoke alarm to wake your sleeping child, you may be making a fatal error.

There's no magic bullet or single solution to the dilemma we face in legislating adequate fire protection; rather, for Ontarians to be effectively protected from fire, we need to use a number of strategies. It's clear that simply having a smoke alarm is not enough.

Installing both smoke alarms and a fire sprinkler system reduces the risk of a fire death in a home, as you heard earlier, by 82% in comparison to having neither. Smoke alarms definitely save lives, but the total reliance on these pieces of equipment is clearly misplaced. Sprinklers are an automatic device, a technology that requires no human intervention or reaction. Sprinklers can contain or even extinguish a fire in less time than it would take the fire department to arrive on the scene, and a good fire department arrives in four minutes. It's a proven technology. It's like airbags. It doesn't rely on changing human behaviour to prevent an accident or a loss of life.

In conclusion, I believe Bill 120 and Bill 2 have the same goal: to protect what we value most. I believe these two private member's bills complement each other, and we're at a crossroads. We have an opportunity to do something historic and meaningful. Let's move to the next level and combine the best of both pieces of legislation. It would make infinite sense to combine Bill 120 and Bill 2, allowing us to craft amendments which incorporate the best recommendations from both coroners' juries and professional firefighters to pass life-saving legislation.

The facts are overwhelming and the terrible ongoing loss of life is preventable. This issue goes beyond partisan politics. Again, I'd like to commend the member from Beaches-East York for being persistent in bringing forward this important piece of legislation. I'm happy to support Bill 120, the Fire Protection Statute Law Amendment Act, 2006. I believe the time is right to bring for-

ward legislation that's meaningful and ensures the safety and security of all Ontarians.

Thank you, and I'd be happy to answer any questions.

The Chair: Thank you very much for your presentation, Ms. Jeffrey. There's about 10 minutes left, so there's just a couple of minutes for each of the parties to ask some questions. I believe it's time for the government side to start.

Mr. Levac: Thank you, Madam Chair. Are we receiving copies of the presentation that's been made?

Mrs. Jeffrey: I can make sure you have one, yes.

The Chair: We don't have any here.

Mr. Levac: I wasn't sure if she's giving yours out afterwards. That's fine. Can we get copies done, please?

The Chair: Certainly.

Mr. Levac: The second comment, or actually a question: Do you see the value of each of the bills? I know you've referenced the sprinkler system and there have been several references to it in the presentations. Do you see the spirit of what the expectation is for fire safety to be entrenched or could be entrenched other than legislation to be done in the building code and/or the fire code?

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Mrs. Jeffrey: I wouldn't want to choose one or the other. Is that what you're asking?

Mr. Levac: Yes. I said once before and I'll be as strong as I was then, that if we were able to entrench the intent of Bill 120 and, in your case, the bill that you're referencing, Bill 4—

Mrs. Jeffrey: Bill 2.

Mr. Levac: —Bill 2, would that satisfy the request that you're making in terms of your quest for sprinkler systems and, in this case, the escape—

Mrs. Jeffrey: Yes.

Mr. Levac: The next question I have is very specific and that is, in combination of a sprinkler system and/or Bill 120, have you looked at the marriage of the two to combine what Mr. Prue is looking for—and I spoke to the deputy about this—in the combination of satisfying both the good of 120 and 2 in kind of a metamorphosized bill or a metamorphosized building code amendment and fire code amendment?

Mrs. Jeffrey: I haven't looked at it. I think Mr. Prue has received advice today that would allow him to craft amendments that he could bring to clause-by-clause that would satisfy the request that you've heard this morning, but I see them as friendly amendments because I think at the end of the day when you hear good advice and historic advice from professionals and from coroners' juries, we would be unwise not to take those recommendations seriously.

Mr. Levac: Finally, in your research for your bill and possibly 120 and your presentation, the request from Mr. Prue—I think Mr. Prue or the committee asked the two questions for background information—

Mr. Prue: That's correct. I asked that.

Mr. Levac: Okay, thank you. It seems that the wooden fire escapes in this backgrounder are all done in

each of the provinces with combustible buildings, meaning that there must be—and I don't know what this is and whether or not it can be clarified for me—some kind of technical reason why you wouldn't upgrade an escape alone if you had a combustible building. There seems to be some type of firefighting expertise that speaks to that. Did you find any of that in your research? What I'm concerned—not concerned about; what I would observe is that, in the question-and-answer, every single province does that. With wooden, combustible materials for the building, they've allowed for wooden, combustible fire escapes.

Mrs. Jeffrey: I can't comment on the fire escapes. The history of why I'm here is because I used to be a member of council in the city of Brampton and I was dealing with group homes. Essentially, it's a business and a lot of the group home operators were trying to evade fire code, so I was trying to find a way to protect a vulnerable population. A really smart firefighter educated me about sprinklers, and the more I have learned about it, the more obvious it is to me that Vancouver was courageous and did a really smart thing. The numbers speak for themselves: Nobody's dying in Vancouver in a sprinklered building. I would like Ontario to join that.

I think Mr. Martiniuk asked a really good question about the high-rises. I look to my neighbours in the south and they're about to build some really beautiful high-rises—the Marilyn I believe it's called. Neither of those two buildings are going to be sprinklered. There are a lot of people in those high-rises. So the more I learned about it—but I certainly didn't pursue any evaluation of wooden fire escapes.

Mr. Levac: Thanks for your passion. I appreciate it.

The Chair: Mr. Martiniuk, do you have any questions?

Mr. Martiniuk: I have no questions other than to congratulate you on bringing this to the public's attention.

The Chair: Mr. Prue?

Mr. Prue: I have no questions—well, I do have questions. This bill is dealing with the retroactivity provisions of the fire code. I don't want to get it confused here with the building code, and I am not entirely convinced that your bill, although I support your bill, falls within the total ambit of the fire code. I believe it also falls within the building code. As much as I support your bill, I'm not willing to wait six years to combine the two. Can you assuage my fears and tell me that yours is entirely within the fire code, as this is, so that I could move or support someone else moving the combination of the two?

Mrs. Jeffrey: I'm not an expert in this. I would say that I can get experts to give you the comfort that you need before you get to clause-by-clause. I agree with you—

Mr. Prue: We have tomorrow at noon.

Mrs. Jeffrey: We will have an answer for you today. I would say that I agree with you. I don't want to wait any longer. We've waited too long already and we've lost a lot of people in Ontario whose deaths were preventable.

Mr. Prue: Neither my bill nor your bill deals with this, but some of the research that I have done shows the escape clause that allows health care facilities to avoid interconnected fire and smoke alarms by having a currently existing system approved by the fire marshal. It also allows an escape clause that health care facilities and old age homes are allowed to have combustible fire escapes. Old age homes; can you imagine? There are other provisions—anyway, just some of those. Was your bill going to deal with those? My bill deals with apartment buildings, basically.

Mrs. Jeffrey: Initially, the first bill was single family homes and then it was all housing. It dealt with wherever you slept. So I think the next time I bring it back, should I have to, I'll extend it to anybody who's renovating their homes. At the end of the day, I don't think anybody ever wanted seat belts nor did they ever want air bags, and we know the results of that legislation. The same arguments were put forward then about cost, how people don't want them and how they're inconvenient.

I want Ontario to be the head of life safety, fire safety in Canada, and you've got to make courageous moves in order to do that. I think the building community is our best ally; they just don't know it yet.

Mr. Prue: Again in terms of the retroactivity, what is being suggested is that we incorporate the provisions of your bill, but your bill specifically contemplates new housing.

Mrs. Jeffrey: Just new housing.

Mr. Prue: So what you've suggested in the past would have to be modified to make older housing retroactive as well within the confines of this bill.

Mrs. Jeffrey: I don't know that yet. I would have to say that I will get an answer for you so that you can have some clarity on that issue before the end of the day. I'm not a lawyer and I'm not as familiar with the building code as some of our firefighters. They would be much better versed at answering those questions.

Mr. Prue: Thank you.

The Chair: Mr. Martiniuk?

Mr. Martiniuk: Could we have counsel's opinion by our clause-by-clause as to whether or not Bill 120, acting retroactively, and Bill 2, if it were acting retroactively, fall within either the building code of Ontario or the fire code of Ontario and whether or not those codes are authorized to cover either Bill 2 or Bill 120 acting retroactively?

The Chair: We can certainly endeavour to get that response, I believe. Do you have any comments? We have research here, but we don't have legal here. So we could get what we can from research if they have something. I think Ms. Drent has some information and then if there's further information needed, we'll endeavour to get that from legal before the clause-by-clause.

Ms. Drent, did you have any comments?

Ms. Margaret Drent: Yes. I would be happy to help you out. I am a lawyer, but as was mentioned by Ms. Sourial, normally the lawyers or the research service do

not act as counsel to committees. Nonetheless we'd be more than happy to work with legislative counsel to get you an answer to your question.

Mr. Martiniuk: Thank you.

The Chair: That's great. Mr. Levac?

Mr. Levac: Further clarity: It's been referenced twice now that the cycle is every six years and you can't wait six years. I just want to make sure that it's understood clearly that amendments can be made to both the fire code and the building code before a six-year cycle or a 10-year cycle. Let's make sure people understand that. It's not a matter of waiting for the next cycle because, as I said, and Mr. Craitor indicated, there have been 20 packages of amendments offered since 2000, and there's also one package prepared for even the 2006 review that's already taken place. Another package is already prepared. So I don't want people to misunderstand that this cycle that they're referring to can only happen every six years. I just want to make it clear.

The Chair: Thank you, Mr. Levac.

Thank you very much, Mrs. Jeffrey, for your time today. We appreciate your comments.

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ONTARIO BUILDING OFFICIALS ASSOCIATION

The Chair: We would now move back to the regular agenda and ask that Terry Hewitson, the president of the Ontario Building Officials Association, come forward. Is Mr. Hewitson here? Thank you. Join us at the end of the table, Mr. Hewitson.

Just for your information, the process as you've watched it unfold so far is that you have exactly 20 minutes. If you don't use all of your 20 minutes, the time will be divided up amongst all of the parties to ask any questions or comments of clarification. I don't know if you have someone who's going to be joining you. If that is the case, we just need to have the name put into the record. It's certainly allowed. If you would like to have someone join you, that's fine.

Mr. Terry Hewitson: Ralph Palumbo is with Pathway Group. He's a consultant that we use.

The Chair: Mr. Palumbo, welcome. Go ahead, then.

Mr. Hewitson: Good morning. My name is Terry Hewitson. I am president of the Ontario Building Officials Association. The association is pleased to provide its views on Bill 120, An Act to require the Building Code and the Fire Code to provide for fire detectors, interconnected fire alarms and non-combustible fire escapes.

The Ontario Building Officials Association is a self-governing, not-for-profit association committed to maintaining the highest degree of professionalism in the field of building code inspection, administration and building safety. As well, through its committee work, training and education services, the association promotes both uniform building code enforcement and interpretation across the province.

At the outset, the association wishes to make it clear that, in making its submissions to the committee, we are not commenting on, or in fact disputing, the need for legislation or regulations to compel the installation of fire detectors, interconnected fire alarms and non-combustible fire escapes, where permitted, in every residential building in which there are two or more dwelling units. Rather, the association believes that there are more effective ways to achieve the stated objectives of this legislation. It is our submission that there are currently in place several mechanisms that will ensure a rigorous review of the need for changes to the legislation or regulations that are required as a result of new directions in government policy as well as new technologies. We submit that these mechanisms should be assessed in order to determine whether codes should be amended to require the installation of fire detectors, interconnected fire alarms and non-combustible fire escapes.

Amending the code on an ad hoc basis through private members' legislation does not provide the same level of review of the technical or policy considerations as the existing code review process. Where a need has been identified, technical changes to the regulations, such as the Ontario building code, should be submitted as a proposed code change for technical and policy review by code review committees. Such changes can be vetted for technical content and impact on other parts of the code and can be made at any time throughout a code cycle. As you've heard earlier, the current 1997 Ontario building code has seen 19 separate amendments since it was proclaimed. Many of these changes have been the direct result of specific issues that have been identified and forwarded to the Ministry of Municipal Affairs and Housing.

It is also apparent that changes to regulations dealing with code issues, unlike legislative amendments, can be effected in a relatively short period of time. As an example, a structural issue arising out of a regulation made pursuant to the building code was identified as requiring an amendment, and the amending regulation was in place in only six weeks.

An alternative method of bringing about code changes is the newly established Building Advisory Council, whose mandate is to provide strategic advice on policy, technical and administrative issues relating to the Building Code Act and the building code. We believe that the Building Advisory Council process is a more appropriate vehicle to deal with technical changes to the building code, such as the one before you at this time, than separate pieces of legislation dealing with a variety of individual code issues.

In our view, the Building Advisory Council is a particularly effective mechanism for dealing with code issues given the broad considerations it undertakes on any given issue. For example, when dealing with issues before it, and formulating advice, the council will consider:

—the impact on public safety, building code enforcement, streamlining of the building regulatory system, accountability and innovation;

—provincial policy goals and national code harmonization;

—technical feasibility;

—economic impacts, including impacts on the construction industry;

—social impacts; and

—the building code, whose purpose is to establish standards for public health and safety, fire protection, structural sufficiency, conservation and environmental integrity and barrier-free access, with respect to buildings; and to establish processes for the enforcement of the standards and requirements.

Not only is there a rigorous review of the considerations relevant to the amendment of the building code, the council's mandate to make recommendations to the minister may very well reduce the time it may take to implement changes viewed by the council as having real merit.

The Ontario Building Officials Association submits that changes to the legislation and regulations, more specifically the Building Code Act and building code, should be enacted through the regular code review process and not through individual pieces of private members' legislation, which are more difficult to amend and which may not be subject to the same in-depth technical discussion on the merits of the proposed changes.

The Ontario Building Officials Association respectfully recommends that proposed changes to the Building Code Act as described in Bill 120 be withdrawn and brought to the Ministry of Municipal Affairs and Housing's buildings branch as a proposed code change to the regulations.

Alternatively, with the establishment of the Building Advisory Council, the matter of the installation of fire detectors, interconnected smoke alarms and non-combustible fire escapes should be a topic for consideration by the council with appropriate recommendations made to the minister for changes to the regulations.

The association appreciates the opportunity to present its views on Bill 120. I would be happy to answer any questions.

The Chair: Thank you very much, Mr. Hewitson, for your presentation. You've taken about six minutes for your presentation, so that leaves about 14 minutes for committee members, a little over four or five minutes each for questions.

I think we start this time with Mr. Martiniuk, if you have any questions.

Mr. Martiniuk: Yes, I just want some clarification on your presentation, which was an excellent presentation, by the way. I'm a little confused. Do I understand that the Building Code Act and the fire code are the same?

Mr. Hewitson: No.

Mr. Martiniuk: They're separate.

Mr. Hewitson: Definitely separate.

Mr. Martiniuk: So your recommendations only address the Building Code Act and the building code.

Mr. Hewitson: Specifically, yes, sir.

Mr. Martiniuk: Does the Building Code Act or the building code permit retroactive legislation? What's your understanding? I'm not asking you for your legal opinion. You've made a submission. I assume you've reached some understanding as to whether or not the Building Code Act or the building code permit retroactivity.

Mr. Hewitson: At this time, I'm not aware of any elements that could be retroactive.

Mr. Martiniuk: So the bill presently before the committee, Bill 120, which acts retroactively, really could not be implemented under the building code as it presently stands.

Mr. Hewitson: As it presently stands; correct.

The Chair: Mr. Prue.

Mr. Prue: This, then, causes a great confusion in my mind. This is a bill dealing with the fire code act. You're here talking about the Building Code Act. Do you have any objections if this goes through the fire code act, as it is intended?

Mr. Hewitson: I would have no objection as it relates to the building code, because the fire code has been known to have retroactive elements.

Mr. Prue: That's correct.

Mr. Hewitson: I do have a concern in general with legislation being brought forward in this manner, which would not be subject to the technical review of a code review committee, whether it be fire code or building code, and subsequently much more difficult to amend in the future.

Mr. Prue: In 2000, a coroner's inquest made these two recommendations—two ministers, two governments, and no legislation, no discussion. How else does this go forward? Has your organization put forward this discussion?

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Mr. Hewitson: No, sir, we have not.

Mr. Prue: Do you know of any minister or ministry staff who have put forward this discussion in the last six years?

Mr. Hewitson: I'm not aware of any.

Mr. Prue: So then, when nobody is taking any action, you want the only action that's being taken to be withdrawn.

Mr. Hewitson: No, sir.

Mr. Prue: Then I'm failing to understand your position.

Mr. Hewitson: I'm suggesting that this could be put forward as an amendment to the building code.

Mr. Prue: But it doesn't deal with the building code.

Mr. Hewitson: But this legislation will affect the building code because it specifically addresses the building code. In addition, the Building Advisory Council, which is a newly formed body—it's been in existence a matter of months, out of the recommendations of the Building Regulatory Reform Advisory Group—has been created and recommendations could be put forward through that group if the need were seen.

Mr. Prue: Who do you propose puts it to that group? Would this be the minister who has chosen not to act on this?

Mr. Hewitson: It could be a minister, any minister, or a private citizen who proposes that to the council.

Mr. Prue: What is the time frame that your group would need to study the technical aspects of a proposal that you don't disagree with?

Mr. Hewitson: I couldn't address how long it would take. What I can say is that with the legislation in its current form—although I am commenting more on process—the technical aspects could be reviewed by more technically knowledgeable individuals as an amendment.

Mr. Prue: So they would give their technical expertise as to the actual wording of the amendment, but you have no idea how long that would take.

Mr. Hewitson: I do not, sir.

Mr. Prue: We've heard from the fire chief, we've heard from people who have studied this a lot, that about a hundred people a year die by fire-related injury. Would it take you a year? I'm just worried about a hundred people dying while we're studying this.

Mr. Hewitson: My objection is not on the merit of the legislation; it's on process. As to time, no, I can't give you a time.

Mr. Prue: In the Legislature, all bills that involve money must be government bills. Private members are given an opportunity to address their concerns, and usually get a chance about every two years to put forward something for debate in the Legislature, and about one out of 10 of them actually ends up in committee. Do you think this is a wrong process? This is a process the Legislature uses. It obviously doesn't go through the ministry and therefore does not involve you. I'm just having difficulty understanding. You want a process that would not allow private members' bills to go forward, as they impact you, anyway.

Mr. Hewitson: No, sir. What we are suggesting is that a change such as this be through an amendment, which can be done more expeditiously, subject to technical review, and amended in a much more efficient manner.

Mr. Prue: But that can only be done if it is a ministerial bill, not if it's a private member's bill.

Mr. Hewitson: Amendments can be brought at any time.

Mr. Prue: By whom?

Mr. Hewitson: The government can bring amendments at any time.

Mr. Prue: Thank you.

The Chair: On the government side, Mr. Levac.

Mr. Levac: I have a copy of the bill in my hand. The title of the bill is An Act to require the Building Code and the Fire Code to provide for fire detectors, interconnected fire alarms and non-combustible fire escapes. The bottom line is that there's a full section that does amend the building code, so to make clarity here, it's not just the fire code; it's both the building code and the fire code. I think the building code is what you're making reference to in terms of amendments. Those amendments

that take place on a regular basis can happen at any time by the ministry through cabinet. They don't require legislation or full-scale public interviews and stakeholder participation. That's a way to clarify what the comments are about.

"Section 34 of the Building Code Act, 1992, is amended by adding the following subsections ... Regulations made under subsections (1) and (2) shall require that every residential building in which there are two or more dwelling units is equipped with,

"(a) fire detectors installed in all public corridors and common areas of the building."

Specifically, this is in the building code and requires this piece of legislation, so there seems to be a marriage between the fire code and the building code. What you're requesting is that the process presently used to amend the building code and the fire code be used to achieve the spirit of what Mr. Prue is talking about. You're not specifically against what Mr. Prue is proposing. I want to make sure that I understand that with clarity. You're not against the idea that fire escapes should be as modernized as possible and that the corridors should be shared and all that kind of stuff. You're not against that part.

Mr. Hewitson: Not at all, sir.

Mr. Levac: You're after the process that's being used. It's common that these types of amendments we're talking about are captured inside of the amendments that are offered to the building code and to the fire code.

Mr. Hewitson: Yes, sir.

Mr. Levac: Thank you very much.

The Chair: Any further questions?

Thank you very much, Mr. Hewitson, for your presentation. Just clear up your paperwork and we'll be moving forward with the next presenter.

ONTARIO ASSOCIATION OF FIRE CHIEFS

The Chair: Next we have with us the Ontario Association of Fire Chiefs, represented by Chief Richard Boyes and Deputy Chief Cynthia Ross-Tustin. Welcome, Chief and Deputy Chief. Thank you for coming. The floor is yours for about 20 minutes. Any time that you leave after your comments will give the committee members a chance to ask any questions or points of clarification. Begin any time you like.

Ms. Cynthia Ross-Tustin: Good morning and thank you, Madam Chair and members of the committee. My colleague and I are here on behalf of the Ontario Association of Fire Chiefs. We are representative of the chief officers within the municipalities. We look after your fire departments, your fire services in your community. We are here today because we would like to applaud the spirit and intent of Mr. Prue's Bill 120, an Act to require the Building Code and the Fire Code to provide for fire detectors, interconnected fire alarms and non-combustible fire escapes. We have a great appreciation for anybody who goes to these lengths to work on fire safety.

We represent 487 different fire departments across Ontario, both full-time and part-time, every size and description. We believe that Bill 120, with its spirit and intent, has great merit but we believe it is incomplete in several areas.

The bill is in response to the very tragic deaths of Linda Elderkin and Paul Benson in January 1999. As a subsequent result of those untimely deaths, an inquest was held and 28 recommendations were made. I'm sure all of you are aware of those recommendations. Some of the key elements of that inquest were pulled out and put into this bill, but we feel that there are more that could be added.

I just feel like I should have a conversation with you as opposed to reading from a prepared report. I don't know how aware you are of fire prevention issues, but in the fire service we look at fire prevention as pillars and cornerstones. The cornerstone of fire prevention, to make it truly effective for the people you serve and we serve, are safe exiting and early detection.

Early detection makes perfect sense. That's smoke alarms, fire detectors. "Smoke alarms" are what we in the business call them. That's the appropriate language. We've spent great time, at great length, promoting smoke alarms. That's what gets people out of buildings earliest. Safe exiting is the other component. It makes no sense if you tell them there's a fire but they can't get out. That's what we build on in many ways. The fire code is built on those principles. It's a little grey in a few areas and it needs to be fixed, and I think what Mr. Prue is attempting to do—without putting words in his mouth—is to fix some of those issues.

The fire code is not just there for the safety of the public; it's there for the safety of our firefighters. So when you have early warning and safe exiting, those residents are out of that building quicker and faster, and they're out on the lawn waiting for us when we get there. We would approach a fire in a different manner if we had to do rescue. You're saving residents but you're also saving firefighters. You're making it less difficult or less onerous or less dangerous if the building is empty of its occupants for the firefighters.

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We appreciate that retrofitting to six units is going to be somewhat onerous. That's a recommendation from the inquest, as opposed to Mr. Prue's bill. We feel that six is appropriate, if necessary. Six units in the fire code right now is a grey area and it needs to be fixed. The recommendations from the inquest fix that, but it needs to go further. It needs to fix other issues within 9.5 of the fire code.

The other thing that a lot of people don't understand is that the fire code and the building code are companion documents. The building code is only there for when the building is built—its design purpose, during construction. Then it's finished. Once the building is to become occupied, it's done. The fire code, as its companion document, takes over and it is responsible for the safety of that building for the rest of that building's life. Every-

thing that needs to be done or fixed to it is done through the fire code. That's why some of these amendments are very important. There is a small retrofit section in the building code; that's when you go back and take out a permit. Throughout the fire code it's there for certain residential buildings, and that's necessary.

This is one of the reasons that we feel the code process or the review process is so important—the amendment process—because of these grey areas, the difference between two-unit residential 9.8, which is basement apartments, and 9.5, which is the rest of the buildings up to 10. There are differences and there are nuances: whether it's a three-storey or a four-storey, whether there are more than five people in a bedroom. They all need to be fixed, but if we just bring in amendments to the code through this piece, some of those other nuances are going to be missed, some of the interconnected issues will be missed, and we would like those addressed.

The other essential element that we feel is missing from the bill is that of sprinklers. Residential sprinklers were put throughout the recommendations of the inquest and we feel that they are invaluable. I think it's interesting, if you're familiar with the automotive industry at all, that when airbags were first coming in we thought, "Oh, we can't have all these regulations. It'll cripple the automotive industry." Now we wouldn't dream of having a vehicle without an airbag. As a matter of fact, car companies are going above and beyond and there are extra airbags. There are side curtain airbags; there are wall airbags; there are rear airbags. It's above and beyond. Nobody would drive a car today without an airbag, and yet we continue to build residential buildings without sprinklers. I'm just not sure of the logic in that.

I'll go back to the cost. I've heard that said as a rationale for not doing this. I'm not sure that cost is the best reason for not putting in interconnected smoke alarms and pull stations. I looked in the paper on the weekend just to see what was going on downtown. I looked at rental accommodations. Oddly enough, there were eight buildings that said, "Newly wired for cable and Internet high-speed access." We wouldn't think about living without those, but I bet at the time they certainly didn't think about wiring for their smoke alarms and making those improvements. We need those kinds of things to be done.

Finally, one of the last recommendations that's in the coroner's inquest and not in this bill is an improvement to some of the fire safety education-related issues. There are some excellent recommendations that would improve the signage and the ability of residents to activate pull stations or get out of their building safely. Those recommendations are not in here and I would like to see those. The Association of Fire Chiefs thinks those are very important issues.

We understand that the fire marshal's office is currently in the process of working through some of these changes through the amendment process. Mr. Prue, I could sense the frustration in your voice earlier that this has gone on too long, and that's one of the reasons we're

here today. These things have gone on too long and it's time that it be done. The Ontario Association of Fire Chiefs is willing to work with this committee or whoever else is necessary to not only speed up the process, but to help champion these causes and put them through faster. The length of time it has taken is unacceptable.

If you have any questions—

Interjection.

Ms. Ross-Tustin: I'll go back to process; my colleague has reminded me. We believe in the process and we support the process of the code and review amendment. If you look at some of the issues that I talked about a few minutes ago, the difference between 9.8 and 9.5—9.5 in the fire code looks after greater stories of residential; 9.8 only looks after two-unit residential. There's a split in the code and they're different. Interconnected smoke alarms are already required in two-unit residential under 9.8, but there are lots of things in 9.5 that don't link up—linking the smoke alarms with the fire alarms and having them interconnected in those sizes of buildings—and it's necessary. We're afraid that if these things are introduced through this process and not through the regular amendment process, some of these nuances are going to be missed and we'll still have a code that's not as wholly functioning as it could be.

The Chair: Does Chief Boyes have anything to say as well?

Mr. Richard Boyes: We've pretty much covered it. The major issue is the public education to ensure that we get the message out and to ensure that the proper process is followed through to do the code amendments. When we do it hit-and-miss, we get where we almost are today: with gaps. The main reason we're here: We want to ensure that we follow a process, but expedite the process so that it does not take forever to get going, because we find the delay—from moments like this to implementation to getting it on the street—very frustrating ourselves. We're fully supportive of fire safety in the province. We need to expedite the process to move it forward in the proper forum.

The Chair: We have about three minutes for each party, starting with Mr. Prue of the NDP.

Mr. Prue: Just by way of background, so you know, public education involves the expenditure of money. That's why I couldn't put it in my private member's bill. No private member can do a bill that expends money. That is the responsibility of the government. So the bill contains everything that costs nothing. Do you support those two items that cost nothing or not?

Ms. Ross-Tustin: Absolutely.

Mr. Prue: Okay. We've had other fire chiefs and people come in and talk about the bill. I just want to get clear, because there has been some confusion over the fire code act and the Building Code Act. This bill purports to amend the fire code act, because that can be done retroactively to older buildings. The building code, of course, is for new buildings, and you've correctly pointed that out. How would the provisions of having a non-combustible fire escape route and interconnected fire

alarms in all buildings be any different, whether it was a two-unit building, a 10-unit building, a three-storey, a five-storey, a seven-storey—and I have the building code here; I understand all the differences—if all of them were required to have it? I don't understand this from what you're saying either.

Ms. Ross-Tustin: I'm trying to make sure I understand your question.

Mr. Prue: If I can paraphrase what you said, you correctly pointed out that sections 9.5 and 9.8 deal with different types of buildings—and I have that here, and they do. But this bill is under the fire code act, and it wants to deal with everybody in the same way. It says that whether you're in a rooming house, whether there are 10 people sleeping there, whether they're side by side or whether they're on top of each other, they should all be interconnected. I don't understand, first of all, why the old bill makes those differences. What is wrong with combining, so that every resident, no matter whether they live in a two-storey, a five-storey, a nine-storey, whether they're on top of each other, beside each other—why can't they all be interconnected and why can't they all have a non-combustible fire escape?

Ms. Ross-Tustin: I don't disagree with the premise. I remember learning the KISS principle in school. What you are suggesting is straightforward and simple, so it almost makes people say, "What? Common sense? I'm not sure we could do that." I think we're here because we do support the intent and the spirit of your bill and we believe in the principles that I believe you're trying to achieve. Our reasons for coming to present here today were so that you know that we do support that spirit and intent but also that we have issues with overlying or skipping a process. There are nuances that can be brought together to make it indeed simple without sidestepping the amendment process. We are in support of the amendment process, and if the amendment process makes it that simple, that would be even better. But we don't want the amendment process overlooked, and we would like this group to work with our group in the fire marshal's office to make sure that the amendment process in fire safety is carried out.

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The Chair: Thank you. Government side, questions?

Mr. Levac: It sounds to me like you're not against the spirit; obviously, you've said that a couple of times. What Mr. Prue has asked is whether or not that's on, if that's what you're supporting, and you've said yes. The process that you keep referring to is the amendment process that's within the building code and the fire code. I think what's missing here is that some people are trying to separate the two, some people are trying to say that you can do one without the other. The implication of the bill as its written includes the building code and the fire code, so there are pieces, there are sections in the building code that, if this gets applied, apply to the building code. What I'm hearing you say, I think, is that there are other things that will get missed if the specifics of this bill are used and not taken to the amendment process, that there are things to add.

Ms. Ross-Tustin: That's correct.

Mr. Levac: Can I assume—I shouldn't do that—that it's because there are more things that could be in the amendment process attached to the spirit of the bill to improve it even more and to effect better fire safety and building code improvements to keep us all safe and secure?

Ms. Ross-Tustin: Yes, sir.

Mr. Levac: Can you maybe reference what some of those things could be?

Ms. Ross-Tustin: For example, let's look at 9.5 of the fire code. They differentiate between the height of a building and when things are alarmed and not alarmed. There is something that could be fixed immediately. There are small nuances to the code; it's not an easy code to work within. The regulations on rooming houses are different between the building code and the fire code. It got missed. The fire code says one thing and the building code says another. There's something that could be fixed that sends the fire service over the edge trying to work it out and make rooming houses safer. There's a nuance that would be missed.

Mr. Levac: Is there some professional understanding—I asked this earlier, but somebody didn't know—of why all of the provinces in our research paper indicated that there was an exemption of wooden fire escapes if they're attached to combustible buildings? Is there some kind of technical fire thing that I'm not aware of in terms of suppression that talks about why they gave the exemption in the first place?

Ms. Ross-Tustin: I'm not familiar with that, unless it's specific to the height of a building and the protection of the window or the exit. I can't answer the nuances of that question either. It almost seems like a line in a bad joke, that you can have a non-combustible building but a fire escape that will burn. That doesn't make any sense.

The Chair: Thank you. Mr. Martiniuk?

Mr. Martiniuk: In reference to the Benson inquest, I notice the magic number of six units appears. Could you explain the rationale of that for me?

Ms. Ross-Tustin: I'm not sure what the jury's rationale was, but the fire code differentiates in 9.5. It talks about six-unit residential; I believe that's what it differentiates.

Mr. Martiniuk: It differentiates for what purpose?

Ms. Ross-Tustin: Part 9 of the fire code was written in pieces, so I'm not sure why, when they wrote 9.5, it came up later on to 9.8. First they started with assembly occupancies, then they moved to 9.3, and then they moved to residential buildings that could be rooming houses.

Mr. Boyes: This is one of the problems that we're running into, that every time you look at the fire code, it's not clear-cut. That's why we want to ensure that the amendment process is put in place so that we can start to pick up on all these holes that are in the fire code. You can talk about occupancies, about the number of bedrooms, and if there's a number of bedrooms, that drives fire alarms or it doesn't; the 9.5s, the 9.6s, high- and low-rise buildings; the 9.8s, which are basically basement

apartments in residential dwellings. That's why we're here really wanting to support the process to expedite all these common-sense questions that are asked. But as the people who enforce the fire code and our other colleagues in the audience will tell you, it's a very frustrating experience trying to interpret this fire code and figure out where it sits with some of the old buildings. Again, the two companion documents—the building code will ensure that new buildings are built with the proper fire alarms, and fire escapes for the old ones.

Mr. Martiniuk: That's a long answer, but it still doesn't answer the question. The inquest dealt with the matter and came up with specific recommendations, and they keep referring to six. I'm just wondering if there was a barrier. For instance, I don't see where safety in a six-unit or a four-unit should be any different, but for some reason they continually, throughout their decision, refer to six units and up. Now, there must be some basis on which they made that conclusion, and I assume that basis is somewhere hidden in the fire code.

Ms. Ross-Tustin: I cannot speak to why the jury chose six specifically, but I believe the difference is in the fire code: the difference between a section 9.5 and a section 9.8.

Mr. Martiniuk: But what's the difference between those two sections?

Ms. Ross-Tustin: The difference between the two sections is a section 9.8 in the fire code deals just with basement apartments: two-unit residential, basement apartment or a one-unit accessory. Section 9.5 deals with low-rise or six-units and up.

Mr. Martiniuk: Does it specifically refer to six? So that's obviously where the jury—

Ms. Ross-Tustin: Yes, sir. I believe that's where they've come up with it, but I can't decide why the jury went that way.

Mr. Martiniuk: And what inferences can we draw from the code in the magic number of six? I mean, are there higher standards for six units and up in the code than a duplex or a triplex?

Ms. Ross-Tustin: They are written differently—and I'll go back to my answer about being written. If all of part IX had been written at one time, they may very well have recognized the wisdom of Mr. Prue's, "Let's do it this way." But it was written in different times and as a result of other inquests, previous inquests—I believe the rooming house fire back in the 1980s in downtown Toronto was part of the reason why section 9.5 came in, because it speaks to rooming houses. A need came up and it was written.

Mr. Martiniuk: So the six-unit significance is lost in the fog of history and tradition; is that what you're telling me?

Ms. Ross-Tustin: I believe it's not lost in the fog of tradition, sir. I believe they attempted at the time, as a result of that inquest, to address a need that was not in the fire code and they made amendments to try and address six-unit residential. Since that time, we've had issues and we've needed to address two-unit residential, so they moved on and added more to the fire code.

Mr. Martiniuk: Okay. Thank you.

The Chair: Thanks a lot, Chief Boyes and Deputy Chief Ross-Tustin, for your testimony today. We really appreciate it. Your deputation was very much welcome. So that's your time now.

FEDERATION OF RENTAL-HOUSING PROVIDERS OF ONTARIO

The Chair: It is now time for the committee members to hear the deputation from the Federation of Rental-housing Providers of Ontario, Megan Harris and Randal Brown. Please join us at the end of the table. As you've seen, you have 20 minutes to make your presentation. If you leave any time at the end, that will be divvied up between the various committee members to ask questions of you. So get comfortable, and welcome. The floor is yours when you're ready.

Ms. Megan Harris: Thank you very much. First of all, I'd just like to say thank you to the committee and to Mr. Prue for giving us this opportunity to speak to you today on this piece of legislation. As some of you may know, the Federation of Rental-housing Providers of Ontario is the largest association in this province that represents those who build, rent, manage and invest in rental properties. Our membership base is quite diverse and it exceeds 250,000 different residential units.

We have four primary concerns with the proposed legislation, and they are: (1) with the process; (2) with some of the technical flaws, which I think came about as a consequence of the process; (3) this legislation does not recognize some of the substantial investments that this industry has put forward to meet the retrofit requirements that were just concluded; (4) we think this legislation goes too far.

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Regarding the first concern: As I heard a number of the previous presenters this morning indicate, there's an established and reputable process by which code amendments are made in this province. The consequence is that that process is very inclusive, it's rigorous and it allows for stakeholder input. As I indicated previously, we're the largest organization of this kind in this province, and for legislation of this magnitude and implications—we were not asked to provide any input whatsoever in the process, and that, I think, is a fundamental flaw. As well, the process that's established and currently in place allows time for detailed analysis, including a cost-benefit analysis, as well as to look at the full spectrum of the implications of the proposed changes. So our first concern, again, goes to the process.

Number two: We believe this legislation has a number of technical flaws. Again, we think this is a consequence of the process that has been undertaken. The discussion of an interconnected fire alarm: My understanding is that the current code does not have a definition for the term that is being used throughout this piece of legislation. This brings me to the next one. There's a lack of clarity in terms of what the intent is and what some of the terminology used in this legislation is to establish.

Number three: The rental housing industry has made substantial investments to meet the retrofit requirements under the Ontario fire code, and this legislation does not recognize that. In addition to those substantial investments that were required of the industry, now we're going to be asked to make additional changes without a full appreciation of the broad spectrum of the implications of this legislation.

Finally, quite frankly, we think this goes too far.

The requirement for retroactive changes to buildings through amendments to the fire code: In reference to Vancouver, in relation to the requirement about the combustible balconies, Vancouver did not require a retrofit. The Vancouver requirements in this area are equal to those that we have here in Ontario.

We've also given you a presentation that we had prepared by Randal Brown and Associates. Randal Brown has nearly 30 years' experience as a fire code engineer. We asked him to look through this legislation and to comment on some of its technical content, so I'm going to have him speak to that at this point.

Mr. Randal Brown: I've got four main points I want to touch on in regard to the fire alarm component of the bill. As well, I just want to touch briefly on the fire escape component of the bill.

I think in our meetings with the federation and Megan's staff—the federation supports fire safety initiatives in multi-unit residential rental buildings. Part of our concern with Bill 120 is from a technical standpoint. As most of you have heard today, the owners have done mandatory retrofit provisions; in 1994, 1996 is when they came out. They could have asked for an extension. Those were all in the Ontario fire code. The concern we have is that this bill is not necessarily coordinated with that piece of legislation, and I'll show you where in one second.

Secondly, there's a process in place. Any member of the public can make a proposed code change to the building code or the fire code. It then goes to a technical body, a committee, which reviews it. There are all kinds of stakeholders there. You're going to have the owners of buildings, the builders of buildings, code authorities, fire officials, the construction industry—you'll have all the stakeholders at that meeting to make sure that, at the end of the day, the piece of legislation reflects what needs to be done, that it is beneficial to the residents of Ontario and that the wording is clear. We've seen a lot of legislation that passed go out where the wording is not clear.

My third point: My main concern when I read through this legislation is under (2.1)(b), which says "fire alarms interconnected." The concern we have is that "fire alarms interconnected" is not defined anywhere. You go to the building code, you go to the fire code, and "fire detectors" is defined. There's not a problem with that; we understand what that is. The problem is that "fire alarms interconnected" is not defined. My concern here and the reason I bring this up is that what we don't want to do is end up putting a piece of legislation in place in which we as end users or implementers don't understand what's being asked and the authorities don't understand what's

being asked. We'd only get a different interpretation from one part of the province to another. Yes, municipalities are responsible for the legislation, to enforce it, but they need to understand, as do the engineers, the installers, the contractors, what is being asked. There is a clarity issue here that has to be developed within the legislation. The current process does that.

Right now, as I sit here looking at this bill, when I look at "fire alarms interconnected," I couldn't tell you what that is. I don't know if that's interconnected smoke alarms. Is that a fire alarm system? The concern I have is that because "fire alarm" is defined, it could force every building to have a fire alarm system. If that's what the province wants and they feel there's enough benefit there for residents in rental buildings, that's fine. In a lot of buildings, such as high-rises, it's there already. It was mandated under the retrofit, high-rise rental buildings.

So part of my real concern is, what is this term "fire alarms interconnected"? It's not defined in the legislation. That's one of our biggest problems. It could be interpreted in a host of ways. When residential retrofit first came out, we had opinions all over the map as to what "audibility" was. Some wanted what was in the building code; some wanted a certain level in the rooms. Eventually, the fire marshal's office issued three or four options as to what was audibility under the fire code. It took a number of years to do. I'd hate to see a piece of legislation of this kind going out which ends up as the same thing: "What do we really want in this thing?"

I'd like to cover a fourth thing really quickly if I can. Do I have time? Okay. The guys at the back of the room know me; I keep rambling.

The real impact of a lot of this is going to be the low-rise product: less than or equal to three storeys, less than or equal to 10 dwelling units. One of the things I ask is that when you put a piece of legislation in, you make sure it's clear. That's one of the key things we have to do. These people are already working on marginal budgets. We need to make sure that when we put an initiative like this forth, we know what we're asking for.

One of the other things, if I can address a previous question: The topics of smoke alarms and fire escapes can be interrelated or they can be separate. If you go into the retrofit, especially when you get into some of the more recent stuff, it looks at what is the egress. How many ways are there for a person to get out of the building? Is it shared, not shared? What's the level of fire compartmentation within the building? That depends on where you put smoke alarms and smoke detectors. So one of the things I ask is, please, when you put in a piece of legislation like this, let's get a consistency of interpretation across the province. Let's make sure we understand what people are asking for.

My main thing is "fire alarms interconnected." I appreciate the spirit of this piece of legislation, but it's not defined. I couldn't tell you what it's asking for today.

Cost-benefit analysis: We have to look at that. Somebody needs to do a comprehensive analysis of what level of safety the province wants in its residential buildings.

How is it going to be paid for? That needs to be addressed.

If I can speak for just one minute to fire escapes, I want to clarify one thing. Section 9.5 of the fire code is for buildings up to and including six storeys in building height with residential occupancies. I have no clue, sir, where the six units came from, whether it's two units wide by three storeys high is six units; it's math. I couldn't tell you. If we go back to the fire marshal's office, they may have some additional information. I haven't done any research on that for today.

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The fire escapes component of this bill needs to be considered in that, if a building is permitted to be of combustible construction, it goes on to say that all of it can be combustible. My concern is that if this bill gets passed and we require all fire escapes to be non-combustible, we have to consider how far that goes. What about the balconies? What about porches? What about platforms? What about eaves?

The other thing is, fire escapes can only be used on existing buildings under the building code. When the building is between three and five storeys in height, under the building code—and this is where you have to look at where some of this legislation is coming from—the windows and the doors facing that fire escape are required to be protected to provide exposure protection to people using the fire escape.

The other thing is, even if we go metal, if the building's falling down, I don't think the metal fire escape is going to do a whole lot of good. We also need to give some thought to things like planning, zoning, building permits, foundations, structural support, the need for a professional engineer or architect to design a support for this non-combustible fire escape, how it's attached to the building. It sort of mushrooms.

In summary, my prime concern is with the term "fire alarms that are interconnected" that's in the current bill and not defined anywhere. Things like that, the terminology, will come out if the current process of the building code committees—the review process that's there; we've sat on those. If that's used, things like that terminology will be ironed out. What is it you want? Do you want smoke alarms? Do you want smoke detectors? Do you want heat detectors? Do you want a fire alarm system? Those kind of issues will come out in the committee. If it has to go to a task group, it goes to a task group, but it gets vetted in that process.

Madam Chairman, thank you very much. I appreciate it.

The Chair: Thank you. Does that complete your presentation, then? Okay, we've got about seven minutes or so, so a couple of minutes for each side. We start with the government side. Mr. Craitor?

Mr. Craitor: Thank you for your presentation. In fact, I must thank all these speakers for their presentations because certainly for me it's been extremely educational. I have a better understanding of this process and why it's important to follow.

I'm just going to make a very quick comment and it's to my good friend Michael Prue. You know, I think I'd be sitting on the other side having this sense of frustration because it has been 1999, we're in 2006, and why? I know exactly—

Mr. Prue: And nothing done. Nothing.

Mr. Craitor: Nothing. Now we're talking about following a process that seems, as I listen to it, to make sense, and I understand the rationale. I guess I'm just saying to my good friend Michael, I'd be frustrated too.

How do we—for yourself, for example, for the other speakers—is this going forward? Obviously, this has to go forward. They said that anyone can put forward amendments. We had the people here from the various fire agencies. Chair, is there anything that you're aware of that's coming forward on this other than the fact that Mr. Prue has this bill that we're dealing with? Is there anything else through this technical process that's taking place?

The Chair: That would be something the government would probably have more information on than I would, what else is coming forward. In terms of this bill particularly, you know that there is an opportunity for amendments to this bill through the clause-by-clause process, but in terms of what else is out there I don't know if there is anything specifically in process right now. We could ask legislative research if they have any information.

Ms. Drent: I could try and find out whether there are any other proposals that are on the table.

The Chair: Through the advisory committee processes for either code, as well as any other legislation that's possibly out there?

Mr. Craitor: Would you do that? Thank you.

The Chair: Certainly. We'll try to have that for clause-by-clause. Mr. Martiniuk?

Mr. Martiniuk: Yes. You didn't deal with it, but there's a suggestion before this committee that, in addition to Bill 120, we also in some way try to amalgamate Bill 2 with it. Bill 2 requires, retroactively, systems of sprinklers. We do have an estimate that to retrofit a unit would run approximately \$5,000 for a sprinkler. Now, landlords have the right under the law to pass this to tenants. I'm just wondering, if a landlord did approach a rental tribunal, the administrative board, to pass this on to his tenants, what would be the amortization?

Ms. Harris: I can get that information and come back to you with that. I can't tell you offhand.

Mr. Martiniuk: You don't have that right now. Okay. My only concern is, of course, that even if the amortization was a known, the burden of a \$5,000-per-unit expense on a tenant would be proportionately more with tenants paying less rent as compared to an expensive rent. Is that fair?

Ms. Harris: Well, the cost implication to tenants to meet the retrofit requirements, as you're stating, will be that, as a landlord, we would certainly have to transfer some of those costs to the tenants, who are already quite burdened, as you know.

Mr. Martiniuk: Do you have any estimates as to the cost of replacing wooden fire escapes per unit, or to wire it to interconnect fire alarm systems?

Ms. Harris: No, we don't have an estimate at this time but I can certainly have that information provided to the committee by end of day, if that's the request.

Mr. Martiniuk: I would appreciate that.

The Chair: Thank you. Mr. Levac?

Mr. Levac: Just a short one, please. I just wanted to make one comment—

The Chair: Can I just ask—I'll finish with Mr. Prue and then I'll come back to you for your last question, because I guess I moved forward. You had about a minute left. Is that all right?

Mr. Levac: Yes, okay.

Interjection.

The Chair: Okay then. That's fine, then. Go ahead.

Mr. Levac: This will be very quick. You made a statement, "going too far." I just want to make a comment that I don't believe Mr. Prue's request is going too far. The same comments came from a very large, vocal group when it came to airbags and seat belts and all kinds of extra safety precautions. I just want to be on the record as simply saying to you, I'm sorry, I disagree with you; going too far is not far enough when it saves a life.

However, I do understand that you're questioning the use of the process, and I accept that as a recommendation and a concern, which has been voiced by other groups. I, for one, will not accept that we can go too far to save a life.

The Chair: Thank you. Mr. Prue?

Mr. Prue: In that same vein, both of you, several times, used the phrase "cost-benefit analysis." A hundred people, on average, a year are dying in fires in this province. What's the cost-benefit you're talking about? How much it's going to cost a landlord so that the tenant doesn't die?

Ms. Harris: I think what we're trying to say, certainly in my comments, is—and again, this goes to the process through which the kind of changes that you require, you are asking in this legislation—if we were to go through that process, then it would be clear for all concerned as to what the implications are and then decisions can be made in that manner. Just circumventing that process, as is required here, means that the kind of rigorous analysis required to really determine how best to achieve the end that's desired is not clear and has not taken place.

Mr. Prue: How do you expect a private member's bill to do anything other than what this one is doing? Because only the government can go through the analysis and all of the other things that you are rigorously demanding. How does a private member's bill do all of that?

Ms. Harris: You know, the virtues of a democracy are that they allow, not just private members, but any citizen to put forward proposed amendments. But, at the end of the day, it's important also that when this process takes place there are established means through which you appropriately vet those recommendations so that they are more helpful than not. I think the desired goal is an

admirable one, and one certainly that should be worked towards, but this legislation, as proposed, does not accomplish that.

Mr. Prue: Your third provision, your third difficulty, puzzles me immensely: that it's going to cost the landlord some money. But, of course, if you replace the carpet, you can get the money back. If you replace the wiring, you can get the money back—the plumbing, the roof. If you repave the driveway, you can get the money back. You get it all back through your tenants. The provisions are very clear in law. Why is this any different than paving the driveway if you were to put in a proper fire escape and you were to hook up the interconnected fire alarms, which you don't understand anyway? But the real thing it comes back to is your cost.

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Ms. Harris: Could you define what that means, then, because we have an expert with 30 years' experience in the sector and that terminology is not—

Mr. Prue: What I want to know is, number three, under what circumstances would the landlord not be able to recoup the costs? I can't think of a single reason, if you can do it for your carpeting or your plumbing or the roof, that you couldn't do it for interconnected, which you don't understand. Or let's make it something you do understand: a fire escape that isn't going to burn down.

Ms. Harris: In all fairness, Mr. Prue, as we've indicated, we support fire safety initiatives that follow the established process because they then allow a very systematic review process in place to ensure that the desired result is achieved. But to a previous member you mentioned that there were no costs involved. Of course there are costs involved, and at the end of the day the tenants are going to be the ones to bear the costs of these initiatives. Tenants don't mind paying when they see that there is definitely a benefit.

Mr. Prue: Exactly. So if their lives are safer and 100 fewer of them are going to die every year, surely they would see the benefit to that.

Ms. Harris: If they believe that what is being proposed is going to achieve that. Our contention remains that the aim of the legislation is one that is worth supporting. However, as a result of the process you're using to do that, it will not achieve that end. This is where the difficulty lies.

The Chair: Thank you very much. We've run out of time. We appreciate your deputation and your comments. Thank you for coming in.

ONTARIO PROFESSIONAL FIRE FIGHTERS ASSOCIATION

The Chair: We will now ask for the presentation by the Ontario Professional Fire Fighters Association: Mr. Fred LeBlanc, president; Brian George, executive vice-president; and Jeff Braun-Jackson, researcher. Gentlemen, please join us at the end of the table. Welcome. Thank you very much for taking the time to come and speak to the committee today. As you may have ob-

served, the process is, I'm sure, not unfamiliar to you. You will make your presentation. You have 20 minutes. Then, after your comments are complete, if there is time left on the clock, the various members of the committee will have a chance to ask you some questions. Begin at any time.

Mr. Brian George: Thank you, Madam Chair and members of the committee, for the opportunity to address you this morning. Fred LeBlanc, president of the OPFFA, sends his regrets. Unfortunately, he's stuck in other committee meetings at our international convention just down the road. With me today is Jeff Braun-Jackson, our office manager and researcher, and Chris Bardecki, a Toronto firefighter and member of their legislative committee.

The Ontario Professional Fire Fighters Association is a professional organization representing 10,000 professional full-time firefighters across Ontario. The OPFFA serves our members' interests in numerous ways, from education to representation on matters concerning health and safety, workers' compensation, pensions and legislation.

Our membership consists of firefighters who perform emergency response, prevention, public education, investigation, training, communications and maintenance. The priority of our members, as detailed in our code of ethics, is a commitment to the protection and preservation of life and property.

NDP MPP Michael Prue has introduced Bill 120 to ensure that a residential building with two or more dwelling units is equipped with (a) fire detectors installed in all public corridors and common areas of the building, and (b) fire alarms interconnected such that activation of a fire detector in a place or common area of the building will sound an alarm that is audible throughout the building. Further, Bill 120 proposes that regulations shall require that the fire escapes, where permitted, are constructed of non-combustible materials.

The OPFFA recognizes that the catalyst for Bill 120 was the fire which took place in January 1999 at 2362 Queen Street East in Toronto. Tragically, Ms. Linda Elderkin and Mr. Paul Benson lost their lives in that fire, and the OPFFA extends its sincerest condolences to the Elderkin and Benson family members.

A coroner's inquest discovered that there were many circumstances that led to the tragic results of this fire, including: the lack of smoke detectors in many apartments, no smoke detectors in the hallways, residents' failure to pull manual alarms, and a hollow-core door that was used as the main entrance to Ms. Elderkin's apartment.

The coroner's office made several recommendations, but two are reflected within Bill 120. The OPFFA believes that we need to first understand the current relationship between the building code and the fire code in the province of Ontario, specifically in the areas identified within the bill.

Fire escapes: In accordance with the 1990 and 1986 Ontario building codes, fire escapes are not permitted on new construction in Ontario. Therefore, part 9 of the

Ontario fire code and related sections of the Ontario building code stipulate the requirements for fire escapes on existing buildings. In summary, fire escapes can be erected in the following circumstances: existing residential and assembly buildings of up to five storeys, or up to two storeys in existing class B buildings—health care facilities. Fire escapes shall be of metal or concrete, except that the wooden fire escapes may be used on buildings of combustible construction. Specifics regarding the construction of the fire escapes can be found in the Ontario fire code, which refers to the 1990 and 1986 building codes. We have attached those sections to our presentation.

Access doors to the fire escapes are known within the codes as "closures." The regulations regarding closures require doors and windows to meet the predetermined fire ratings to resist fire penetration for the specified time, i.e., 20 or 45 minutes. As well, doors shall be equipped with self-closing devices. Notwithstanding, the Fire Protection and Prevention Act, 1997, in some instances may permit existing fire escapes to be accepted.

Fire alarms, interconnected: With respect to fire alarm requirements in residential buildings, the fire code requires a fire alarm system to be installed in accordance with the building code where the building is greater than three storeys in building height or sleeping accommodation is provided for more than 10 persons. Specific applications are applied to each actual building depending on numerous variables, including but not restricted to the number of dwelling units, occupant load, building size and configurations etc. However, a building not greater than three storeys in building height that contains not more than 10 dwelling units and provides sleeping accommodation for not more than 24 persons shall be deemed to be in compliance where the building is equipped with smoke alarms installed and interconnected so that the activation of any smoke alarm will sound a similar signal in each of the interconnected devices, and a manual pull station at each exterior exit door for the actuation of the smoke alarms.

Despite specific fire code and building code requirements, "where the performance and reliability of an existing fire alarm system will provide an early warning level, the existing system may remain, be modified or be extended, if compatibility of the components is maintained and the system is approved" by the chief fire official.

Our position is that Ontario's fire code and building code attempt to ensure high levels of public safety and, by relationship to that, firefighter safety. The facts and results surrounding the January 1999 fire that took the lives of Linda Elderkin and Paul Benson are tragic in many ways. It is clear from the accounts of what occurred during this fire that existing code compliance and a properly executed fire safety plan may have significantly altered the results of that fire.

Where buildings with fire escapes conform to all elements of the fire code and the building code, it is our position that they would provide a reliable means of

egress during an emergency. The difficulty is the fire services' ability to inspect every building for compliance across Ontario, but it is important to remember that it is the responsibility of the property owner to be in compliance first.

Early detection is the critical element to aid in the person's ability to escape. Just this year, the Ontario fire code was amended to mandate a working smoke alarm on every level of each home in Ontario. This is a significant step forward. However, this recent amendment and the current requirements for interconnected smoke alarms do not address multi-dwelling units to the degree outlined in Bill 120. This is where we believe the focus of the legislative movement should be.

Other jurisdictions have witnessed positive effects from similar legislation. Similar changes implemented in other jurisdictions have dramatically reduced the number of deaths from fires in multi-unit dwellings. The city of Vancouver implemented its changes nearly a decade ago. The government of Alberta, in 2004, recommended that secondary suites, defined as self-contained dwellings within a house or other building, be equipped with interconnected smoke alarms. In 1998, the Manitoba Legislature amended the Fires Prevention Act to mandate the installation of interconnected smoke alarms in all buildings.

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A study completed by the Canada Mortgage and Housing Corporation, CMHC, reported that the rates of fire incidence, injuries, property damage and death dropped by 75% between 1980 and 1999 due to the installation of smoke alarms and increased public education about fire prevention and safety.

Ensuring that residential buildings with two or more dwelling units have interconnected fire alarms is sound and needs further consideration. Our only caution is the confusion this may cause in buildings already requiring fire alarm systems under the fire and building codes. Therefore, it is our position that the legislation be amended insofar that where a residential building does not require a fire alarm system as per the requirements of the Ontario fire code, interconnected smoke alarms throughout all areas of the building be mandated. This would greatly enhance the safety of the residents and the firefighters responding to the emergency.

Thank you for the opportunity to appear before this committee today. If time permits, we'll answer any questions.

The Chair: Thank you very much, Mr. George. We have about 12 minutes left, so it's about four minutes for each side. I believe we begin with the Conservatives.

Mr. Martiniuk: Thank you, Mr. George, for your excellent presentation. There has been some discussion at this committee that the provision dealing with "interconnected" is somewhat vague. I'm not asking you for your legal opinion. I can read subsection (b) from a legal standpoint, but you, with your background and expertise in the area of fire detection and extinguishment, might have a different opinion. If I could direct your attention

to 1(2.1)(b), it states, "fire alarms interconnected such that the activation of a fire detector in a public or common area of the building will sound an alarm that is audible throughout the building." I ask you, with your expertise, do you find that vague?

Mr. George: I don't have a copy of it in front of me to read right now. From a firefighter perspective—and I don't consider myself to be an expert on any fire alarms or their operation; only the receiving end of it when we pull up to the front door—any system that is audible throughout the entire building to alert the residents and give them the earliest warning possible, is going to help us save lives and give the residents the ability to get earlier detection and have them save themselves.

Mr. Martiniuk: Thank you.

The Chair: Mr. Prue.

Mr. Prue: It seems to me you understand what "interconnected" means. You just wire them all together.

Mr. George: That's my understanding.

Mr. Prue: I don't think engineers understand that quite as well as firefighters, perhaps. Having said that, I'm a little bit confused about the fire escapes. You're correct: If the building is six storeys or more, there are no fire escapes. That has been done away with. This bill intends that the fire escapes that do exist and continue to exist on buildings five storeys or less would be of non-combustible material. You haven't really put a position on that. Can you tell me, have you ever been involved in buildings where the fire escape was on fire?

Mr. George: I personally have not been. However, I do know that Scott Marks, president of the Toronto Professional Fire Fighters' Association, was involved at this fire, and in discussions with him, that was the case. The fire escape had been ignited from the fire venting through a window. I'm not sure what storey, whether it was the first or second storey. I'm not even clear on how many storeys this building had.

Mr. Prue: Four storeys.

Mr. George: Four. However, our contention was that in the fire code and the building code currently—and I neglect to be able to go right back to the different parts of the code—there are different areas in the code that would give protection to those fires getting out to the fire escape. Our contention is that if there was possibly more enforcement and the ability to do that enforcement, these so-called enclosures would protect those fire escapes longer to give the residents that time to get out quicker.

Mr. Prue: May I ask a question—it's a difficult one—on your own individual homes? If you had a home that was three or four storeys high, would you build a wooden fire escape for your family?

Mr. George: If I was to build a home three to four storeys, which I would not be able to, I would say that that would probably not be the case.

Mr. Prue: Do you think that having a metal or concrete or some other non-combustible material is a preferable thing in terms of safety?

Mr. George: Yes. In building my own home I would make everything as fire-safe as possible, with as many

sources of egress as possible for my family, and they would likely be of a non-combustible material.

Mr. Prue: And I'll bet you'd put in a sprinkler system to boot.

Mr. George: I probably would.

Mr. Prue: Okay. Thank you so much.

The Chair: Mr. Levac.

Mr. Levac: I've been seeking some clarity on this question, so I'll ask you guys if you might have this answer. In the discussions we've been having today, there are changes that weren't made in all of the provinces that we had reports on, indicating that if there was a combustible building, a wooden fire escape was acceptable. It's telling me something, and I can't quite figure it out, that there must be some relationship between the actual building that it's attached to and why they've exempted going into modernizing, either using a steel or a concrete fire escape. They've allowed wooden fire escapes.

This isn't to speak against what Mr. Prue is trying to do. It's trying to find an answer to a question as to why these exemptions are permitted in all of the provinces. Would you have any kind of professional opinion as to why that's the case?

Mr. George: I'll let Mr. Bardecki answer that.

Mr. Chris Bardecki: I think the exemptions point to the fact that if the building is made of combustible materials, there's no great benefit to be had by erecting a non-combustible fire escape. What we're trying to key on is the fact that if you create a better separation between the interior combustible structure and the fire escape itself, you're going to enhance people's ability to get on that fire escape and actually self-rescue.

Mr. Levac: So it's the piece in between that you would really focus on.

Mr. Bardecki: The piece in between—it's a little more critical. When you're dealing with a building that's going to burn, if you put up a metal fire escape and it's standing after the building has burned to the ground, it doesn't mean anything.

Mr. Levac: Okay. I think that's part and parcel of the other question I've been asking, and that is the process itself. Some of that has been questioned as to whether or not what you see could be accomplished within the spirit of what Mr. Prue is asking for. In fairness, there have been presentations about sprinkler systems. If there's a way to get the spirit of both of those inside of the building code and the fire code in the process—and we now know that it's not six years, because they do a review every six years; it's whenever an amendment is used—would that satisfy the professional firefighters in terms of at least capturing what Mr. Prue is asking for?

Mr. George: Yes, I believe so.

Mr. Levac: My final comment is to you gentlemen, as always to all of the people here who represent those who keep us as safe as possible: to the firefighters, our obvious gratitude and thanks. I was privileged to take part in an activity that opened my eyes about what you

face day in and day out, so I want to thank you for the work that you do.

The Chair: Thanks very much. Thank you as well, gentlemen, from the position of the Chair for your presentation. It was very helpful. Thanks a lot for coming in.

Mr. George: Thank you, Madam Chair.

NATIONAL FIRE PROTECTION ASSOCIATION

The Chair: Our final presenter of the day is the National Fire Protection Association, Sean Tracey, the Canadian regional manager.

If you want to come to the end of the table and get yourself comfortable—the format, as you've observed, is that you have 20 minutes available for your presentation. If you leave some time within that 20 minutes, the committee members will use that up in asking you questions. Welcome, Mr. Tracey, and please begin.

Mr. Sean Tracey: Thank you very much. Good afternoon, Chairperson Horwath and members of the committee. Thank you for the opportunity to present this testimony today. I am very particularly pleased to be able to do so in my home province of Ontario. As well, I'd like to thank the honourable member Mr. Prue for bringing these public safety initiatives forward.

I am Sean Tracey. I'm a registered professional engineer in the province of Ontario and a member of the Institution of Fire Engineers. I am the Canadian regional manager for the National Fire Protection Association. My office is currently based in Ottawa, Ontario.

NFPA has been established since 1896 as the world leader in advocating fire safety codes, standards and public education programs. In fact, all firefighters who are being certified currently in Canada are certified to NFPA codes and standards. At this particular point in time, we have over 40 codes and standards referenced in the national building code, Ontario building code, fire codes and other code documents in North America.

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The protection of Canadians has been paramount with NFPA since its beginning, as one of the founding organizations was the Canadian Fire Underwriters Association. Although headquartered in the United States, we have operations worldwide. Of our 80,000 members, 3,000 are Canadians from all walks and fields, including the fire service, professional engineers, health care professionals and others.

NFPA publishes codes and standards, which, written by volunteers, form the fabric for many of the fire safety provisions currently covered in the Ontario fire and building codes. This includes over 40 reference standards in each of these documents. The NFPA 101 Life Safety Code has its origins following the 1911 Triangle Shirtwaist Factory fire. It is essentially the first building code for North America, and it continues on as being the exit code standard for most references that we currently hold in the national building code and Ontario building and

fire codes. And as such, it is essentially the reference document of choice by code officials for fire and life safety provisions, many of which we take for granted today.

First let me speak to the process that is being used here today. Bill 120 is a very good start in bringing Ontario life safety provisions in line with the rest of North America, and it is therefore supported by NFPA. Discussing code amendments in such a forum is essential in Ontario as it permits the general public to have a voice in the building code amendment process, a code amendment process that has otherwise been behind the rest of North America and has been neither open nor accountable to Ontarians. Bill 120 will give the public and fire safety groups a voice in such a forum. We therefore thank you for this opportunity. NFPA supports the Bill 120 provisions, as presented, but has a number of suggested changes that improve the fire and life safety provisions and will thus better protect Ontarians.

In making these comments, I will be referring to the NFPA document, NFPA 101 Life Safety Code, the 2006 edition. This document is the source document, as stated earlier, for many of the fire safety provisions that we find in Canadian codes. But additionally, it has been adopted already in PEI and in Newfoundland and Labrador, and in both cases has been used for over 20 years harmoniously with the national building code and national fire code. Additionally, this code document has been in use or is in use in all 50 US states, by US federal government facilities and for all health care facilities that are accredited in the United States. Similarly, it has been used in Ontario in numerous fire code opinions as well as in the Ontario Building Code Commission for egress equivalencies. So, when in doubt, it has been used as the first source to cite for reference code issues, those that have not been adequately addressed by the current building and fire codes.

I'd first like to talk about fire detectors in public corridors. The intent behind placing these detectors in public areas is to improve the occupants' evacuation times and thus their survivability from fires that occur outside of their dwelling units. Unfortunately, the provisions would still require able-bodied occupants to evacuate under what may be potentially life-threatening situations or conditions. In surveys conducted by NFPA, over one third of households who made an estimate of their evacuation time thought that they would have at least six minutes from the notification of the alarm to complete their evacuation. The unfortunate reality is that this is significantly less. We know from studies conducted by the National Institute of Standards and Technology, NIST, in the United States, that it can be as little as one minute to a minute and a half from the notification of an alarm to such time that even in a single-family dwelling the conditions become untenable.

Only 8% of those who were surveyed actually said that their first thought on hearing a smoke alarm would be to get out—only 8%. This, unfortunately, is human behaviour in fire. People wait for reinforcing cues.

We've all typically stayed or may have stayed in a hotel room when the fire alarm has gone off. What we will typically do is get out of bed, open the door, stick our head out and wait for direction or clues, for some sort of response as to what's happening. Unfortunately, that is human behaviour.

In the decade from 1995 to 2004 in Ontario, smoke alarms were present in 60% of all fatal residential fires. Furthermore, 65% of those fire fatalities occurred when the fire department response time was five minutes or less. The provisions in Bill 120 for interconnected fire detection devices will improve the detection time for fires, but it does nothing to suppress the fire itself. It will only marginally increase successful evacuation time for able-bodied residents. It does nothing to address concerns that we have for seniors who we know do not have the capability of hearing the detection or the alarms, and for those members of our population, in increasing percentages, who are physically incapable of self-evacuation either because of age or physical impairment. These individuals will still be at great risk. It does not improve all of their survivability. It is not the best method of protecting these facilities. Residential sprinklers are. Please let me explain.

The provisions that you've identified in Bill 120 are in line with those for existing facilities found in NFPA 101. They are what we require in all of those jurisdictions for existing buildings. What you are asking is not unrealistic. We agree with that, and it should be retroactive for all of those existing buildings. NFPA 101, in deciding that, has a balance of representation on our open, consensus-based committees, so we have building owners' representation, BOMA, fire service, public sector, private sector, all balanced to make those decisions, because they recognize and rationalize that this was an acceptable cost versus the risk we are facing in the society. NFPA requires that, and that is not unrealistic. It is currently a requirement now, as we state, in PEI and Newfoundland and Labrador.

NFPA 101, however, makes no such provisions for new construction. That is because the assumption made is that all of these facilities would be protected throughout by an automatic residential sprinkler system with smoke alarms in every single dwelling unit. It is out of concern for public safety that NFPA's technical committees, made up of volunteers, required NFPA to write into our building and fire codes the mandatory sprinklering of all residential properties, including one- and two-family dwellings, as a requirement in the 2006 code cycle. Again, that is a position supported by the Canadian Association of Fire Chiefs. Residential fire sprinklers save lives.

Ontario home fires account for 96% of fire fatalities in all buildings and other structures. We are at greatest risk from fire where we feel most secure. The most recent report from the NFPA on the US experience with sprinklers and other fire extinguishing equipment actually showed that having sprinklers reduces the potential for damage and property damage in a fire by one half to two thirds in all types of buildings. Although sprinkler usage remains limited, even though the statistical infor-

mation supports it, we are on the crest of a wave that is seeing the increased introduction of residential sprinklers. The number of communities is growing across North America, and we have now over a decade of use in Vancouver and other cities in Canada.

However, while the presence of smoke alarms has been very effective—correction: somewhat effective—in Ontario, the presence of smoke alarms alone does not generate the same potential life-saving benefits of both smoke alarms and fire sprinklers. The added study by the National Bureau of Standards in the United States found that the estimated likelihood of dying in a fire is reduced by 82% when both a smoke alarm and residential sprinklers are added to a home that had neither.

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As a resident of Ontario, I also want to use this as an opportunity to express alarm, and to note that Ontario is the only jurisdiction in North America that does not require the sprinkling of high-rise residential properties. Every condominium being built that is a high-rise right now downtown or in any large city in Ontario is not required to have a residential sprinkler. These provisions were deleted by Ontario Municipal Affairs and Housing in the last code cycle despite requirements in the national building code of Canada and both building codes in the United States. These facilities would have been required to be with a sprinkler. This decision by Ontario Municipal Affairs and Housing, without public discussion, increases the risk to Ontario residents. An Ontarian working in a high-rise office tower would be protected while at work, but when returning home to cook and sleep would not be given the same protection. This is striking when you consider again that 96% of fatalities occur in homes.

In a letter by NFPA to the Minister of Municipal Affairs and Housing dated July 20, 2005, NFPA pointed out that an Ontario resident living in a high-rise structure was from four to 9.5 times more likely to die in a high-rise fire than in any other Canadian province. These increased risk figures were developed from fire risk modelling software prepared by the National Research Council of Canada. Unfortunately, the proposed changes in Bill 120 will not change any of these risk factors. Residential sprinklers will.

I therefore suggest an alternative to the Bill 120 wording be considered. Please consider the mandatory sprinkling of residential properties in Ontario as identified in Bill 2. This will give the best protection to Ontarians. Failing that, consider wording that would increase the likelihood that residential sprinklers will be supported. Amend the wording of the bill by the addition of a clause that states that the presence of interconnected fire detection devices is not required when the entire building is equipped with approved automatic sprinklers and smoke alarms in each dwelling unit. Finally, please correct the abhorrent exception in the Ontario building code that makes Ontario the only jurisdiction not to sprinkler high-rise residential properties in North America.

I was not planning on discussing fire escapes, but hearing the testimony from the past two individuals, I thought it was appropriate to at least say what the NFPA 101 Life Safety Code would require for fire escapes. We have similar provisions to what is currently found in the Ontario building code and fire code, with the exception that we would get into about 10 pages of detailed requirements.

One of the concerns is that NFPA requires only non-combustible construction on any fire escape. The rationale used for that is that one has to consider that these are only permitted in structures that are existing because there is already an existing deficiency in the exit capacity of that building. Fire escapes are not a suitable replacement for proper means of egress; they are a compromise to life safety and therefore need to have a higher standard of protection. Requiring them to be made of non-combustible construction requires that the owners, who are using these as an escape clause from having adequate fire protection features, go the extra length to ensure that they're a properly designed feature.

One of the other concerns we need to consider as well is firefighter operations and fire ground operations. The Ontario fire code and building code's new edition does not require or identify as a core requirement or functional statement the protection of first responders or what their fire ground operations are. These were deleted from the 1995 editions of the national building code and fire code. Much of the requirement for these to be of non-combustible construction is to allow the fire department to use them for their fire ground operations, as much for the safe egress of the occupants but also for the fire services personnel. That is why we need to have these non-combustible constructions: so they can conduct their fire ground operations.

In conclusion, ladies and gentlemen, Bill 120 is a very good start to increasing the safety of Ontarians. It has permitted an open dialogue on fire and life safety issues that has not previously been in the public domain on certain issues. Bill 120 is a good start with good intentions, but it needs some minor tweaking or changes to better protect Ontarians. Encourage the use of residential sprinklers as a viable alternative to interconnected fire detection devices. Better still, require the sprinkling of all residential properties, as proposed by Bill 2, but please revisit why Ontarians living in residential high-rises are not worthy of protection to the same requirements of anyone else in Canada or North America. Ontario residents will benefit by the reduced risk. There is a movement afoot in North America, and Ontario is far behind.

Again, I support you and encourage you on Bill 120. Are there any questions?

The Chair: Thank you very much, Mr. Tracey. There are about four minutes left, so just a little over a minute each for members of the committee to ask a question. We start with Mr. Prue from the New Democratic Party.

Mr. Prue: Thank you very much. You have clarified so much, after so much muddying of the water today. I

just want to be clear about "North America," because people often talk about North America being only the United States and Canada. You are including Mexico in that?

Mr. Tracey: I am not including Mexico in that.

Mr. Prue: I just want to make sure. Then we're not the only ones in—

Mr. Tracey: No. But if you consider—

Mr. Prue: Well, they are North Americans.

Mr. Tracey: Yes.

Mr. Prue: Oh yes, they absolutely are.

Mr. Tracey: But we are not including Mexico in that.

Mr. Prue: All right. I just wanted to be clear about that one statement. I think that's enough.

The Chair: Mr. Levac.

Mr. Levac: If I heard you correctly, you're saying that this process you're presently participating in is better than the one that we've been referencing, which is the amendment process within the building code and the fire code, because you believe—and I don't want to put words in your mouth—there's not enough public input, there's not enough stakeholder input. Is that what I'm hearing?

Mr. Tracey: I'm going to get myself in trouble here, but, yes, absolutely. There's no accountability in that process. You can submit a comment, but when are the comments published and responded to? Under our process under NFPA, every single comment received is acknowledged, published, voted on. How the members vote is all published. It is enclosed in the public domain. I have submitted numerous comments in building code amendment processes, and where have the comments been published and what's been the rationale for rejection of those comments? This at least allows individuals to have some transparency to the process, in my opinion.

Mr. Levac: Just quickly, if possible, this question I've been asking most of the deputants: If the spirit of what Mr. Prue and the sprinkler system issue that got into this were accomplished with the other process, regardless of whether or not it's transparent, but if that got accomplished, would you be satisfied that we're moving forward in terms of our public safety?

Mr. Tracey: Unfortunately, in my opinion, no. And the reason for that is that if we wait for the amendment process, as some of the groups have proposed, that next amendment process that you're going to see is not going to see the codes change until 2010 or 2011. How many more Ontarians are going to die in that time? By taking this process now and addressing those deficiencies—and we have to remember that the deletion of the residential sprinkler requirements for a high-rise was as the result of what people claim to have been that process. We have no faith in that process.

Mr. Levac: You believe that it's a six-year cycle?

Mr. Tracey: It's a five-year cycle, and we've passed the gate for the 2000—

Mr. Levac: Six.

Mr. Tracey: —2006 cycle, so you're looking at a 2010, 2011 adoption.

Mr. Levac: I believe I've brought clarity to that, Madam Chair.

The Chair: Yes. That has been on the record already earlier today. Mr. Martiniuk?

Mr. Martiniuk: Mr. Tracey, your association has professional engineers. Who else belongs?

Mr. Tracey: Correct. Anyone can actually be a member. Canadian members would make up fire service members. We have professional engineers. Randal Brown, who just presented, is a member of NFPA and sits on a number of NFPA technical committees as a volunteer. Health care professionals, workers, fire service—

Mr. Martiniuk: Right. We don't have a lot of time. I just want to follow up on Mr. Levac's—there seems to be a lack of transparency in the process of amendment of the codes.

Mr. Tracey: In my opinion, yes.

Mr. Martiniuk: And there are no minutes ever publicized?

Mr. Tracey: I have not found any.

Mr. Martiniuk: And there are no replies to letters?

Mr. Tracey: I have not been responded to.

Mr. Martiniuk: Do you know which bureaucrats are involved in that process?

Mr. Tracey: I think it would be inappropriate for me to name names for those individuals—

Mr. Martiniuk: No, I don't mean names; I'm talking about organizations.

Mr. Tracey: In particular I think the concern is with the municipal affairs and housing division. The Ministry of Municipal Affairs and Housing is responsible for the development of the building code. I do not have an issue on the fire code's development; it has been with the building code issues.

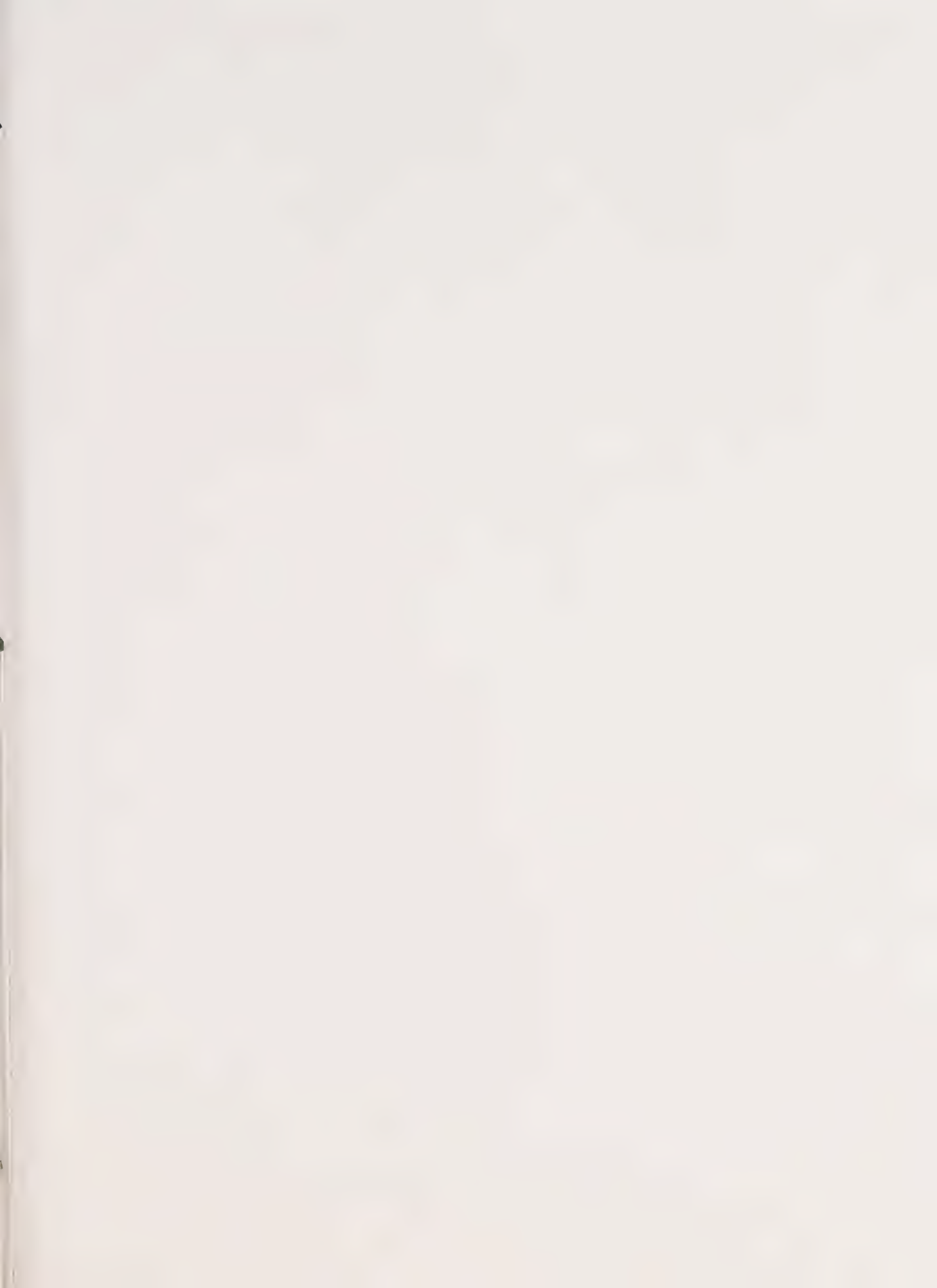
Mr. Martiniuk: Thank you.

The Chair: Thank you very much, Mr. Tracey. It was a very enlightening presentation. We appreciate you taking the time to come and speak to the committee.

Committee members, that wraps up our deputations for the day. Before we adjourn, I just wanted to remind everyone that the committee reconvenes tomorrow at 10 a.m. for the consideration of Bill 89, and then clause-by-clause for this bill takes place on Thursday, you might recall. The deadline for amendments to the bill is tomorrow at noon.

Unless there are any other items that people wanted to raise, that would mean that our committee is now adjourned. Thank you very much for a very productive morning, a very productive day.

The committee adjourned at 1313.





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Official Report of Debates (Hansard)

Tuesday 29 August 2006

Journal des débats (Hansard)

Mardi 29 août 2006

**Standing committee on
regulations and private bills**

**Comité permanent des
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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLS**

**COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ**

Tuesday 29 August 2006

Mardi 29 août 2006

The committee met at 1005 in committee room 1.

**KEVIN AND JARED'S LAW
(CHILD AND FAMILY SERVICES
STATUTE LAW AMENDMENT), 2006
LOI KEVIN ET JARED DE 2006 MODIFIANT
DES LOIS EN CE QUI CONCERNE
LES SERVICES À L'ENFANCE
ET À LA FAMILLE**

Consideration of Bill 89, An Act to amend the Child and Family Services Act and the Coroners Act to better protect the children of Ontario / Projet de loi 89, Loi modifiant la Loi sur les services à l'enfance et à la famille et la Loi sur les coroners pour mieux protéger les enfants de l'Ontario.

The Vice-Chair (Mr. Tony C. Wong): Good morning, ladies and gentlemen. This is the standing committee on regulations and private bills. We're dealing with Bill 89, An Act to amend the Child and Family Services Act and the Coroners Act to better protect the children of Ontario.

JENNY LATIMER

The Vice-Chair: The first deputant is Ms. Jenny Latimer. Please come forward. Welcome, Ms. Latimer. You have up to an hour and, if there is time left, there will be time equally divided amongst the three parties of this committee for comments and questions.

Ms. Jenny Latimer: Thank you. I live every day wondering what I could have done differently in order for Kevin to still be here. It is imperative that our Family Court system learn from its mistakes. My son Kevin's life was lost and, sadly, there are many other children in the same predicament that my children were in. It's ridiculous, the number of children who are forced to be handed over into unsafe environments. I suppose that I could have refused to comply with our custody order. However, in the eyes of our Family Court system, I would have been the criminal, a mother desperate to protect her vulnerable children from a previously abusive man.

Kevin and Jared's Law needs to be in place to make some necessary and much-needed changes. Liam and many other children need this law to help protect them.

This is a very serious problem. Procrastinating is not solving anything. We cannot just sit still and hope that these monsters will change. A person's character cannot be judged in one single meeting. These abusive parents can act like the nicest people in the world, but it's just that: an act. Whether due to a mental illness, addiction or just selfishness, I know these abusers have issues. I know this because I personally know one. I do not hate this man, nor am I vengeful. I just want the best for my son.

The Family Court system ordered my husband to attend anger management and have a psychiatric evaluation. Did all this take place, and were there any conclusions? I don't think that it was ever followed through with. Kevin did not receive justice. Liam is not receiving justice. I want my child protected.

August 29, 2003, was the date of Kevin's fall. Kevin was a lovable, healthy and smart 18-month-old boy. Liam was just three at this time. He was the only witness to this tragedy. At approximately 8 p.m. that evening, their father had passed out. My two infant children were left to amuse themselves in this attic apartment. This was an apartment in downtown Hamilton. Halton Children's Aid Society neglected to check out the residence because it was out of their jurisdiction. They checked out my residence and my parents but not the father, who was the problem in the first place.

Kevin and Liam were seen throwing clothes out of a broken screen window. Unfortunately, no one had reported this incident occurring the previous visitation weekend as well. A neighbour had offered to fix the damaged window. My sons' father declined. The man also warned that the children were in danger. I had recognized that clothing was missing. However, it never occurred to me that they might have gone out that window.

The morning of August 29, 2003, I waved goodbye to my children from my mother's residence. Liam was crying and pleading, "No." The boys were still barely talking, so I was unsure as to why Liam was so reluctant to go to his father's house.

The morning of Kevin's fall, my estranged husband was caught on video at a local beer store without my children. During police questions, he admitted to leaving Kevin and Liam in the car on that hot August day. In my opinion, the appropriate parenting skills were not present.

I had a Family Court order that my boys' father was to have joint custody of Kevin and Liam. This was to take

place January 2003, after his men's group and psychiatric evaluation were completed. In the spring of 2003, the father exercised his visitation rights with my children, this being only five months prior to Kevin's tragic fall. My husband had been abusive in our marriage, and after my children were born he often became jealous and frustrated. When I was seven months pregnant with Kevin, my husband almost killed me. He pushed me into a wall, and when I managed to get up, I locked myself in the washroom, crying. He then punched a hole in our bathroom door. I heard Liam crying, so I pushed my way past my husband to comfort Liam in his bedroom. I picked up my baby and held its shaking body close to mine. Liam's father came yelling from behind. He wrapped his hands around my neck and squeezed. I held Liam until I fell, breathless. The man later claimed that he was not in control of his actions.

1010

Another incident occurred when Kevin was two weeks old. I awoke in the night to his crying. I picked up my newborn baby and held him on the bed. Unexpectedly, I was punched from behind. I put Kevin down in his car seat beside my bed and, as I turned to my husband, he then punched me full force in the stomach. He was yelling because the noise was disturbing him. It took a while for me to catch my breath. He claimed he was asleep and possibly dreaming.

Shortly following this, I took Kevin and Liam to a women's shelter for six weeks. It takes a lot of courage to leave your life behind. My children's safety was my priority.

At this point, Liam had bruises from his dad's fingers on his ribs. The children's aid society referred to it as "excessive force of discipline." They did not seem to view my concerns seriously. The boys' father had potential to seriously harm them physically, emotionally and mentally, and he did. Nobody understood my concerns because my estranged husband can be so charming. He even fooled our children's aid worker, who then turned her frustrations at me. I felt victimized by someone who was supposed to be helping us.

In the fall of 2002, a supervised visit took place where the father yelled and cursed at a six-year-old boy at the park. The children's aid worker saw his personality switch, yet all she did was to cancel that one visit.

Also, early in August 2003, while returning Liam and Kevin, my estranged husband followed me upstairs. He grabbed my arm and said, "Don't worry. As long as we're together, the boys will be fine." I then had a no-trespassing order put on him. Legally, I still had to allow him access to our sons. It was only two visits following his threat that the fall occurred. Kevin was rendered a quadriplegic and Liam is emotionally scarred forever. Kevin manoeuvred himself on to the ledge of his father's residence. He clung on, trying to keep hold. Liam tried to grab him but he was too scared, and Kevin fell four floors to the dirt and cement below. Liam sat crying at the window, afraid to wake his father.

Kevin lay below, conscious, crying and unable to move. A nine-year-old girl found Kevin and called 911.

Neighbours tried to bang and wake up their father, unsuccessfully. Liam was still alone and scared. Paramedics finally arrived and tended to Kevin, and someone finally broke in and shook my estranged husband awake. Liam is still telling me what he keeps remembering of that horrible night. My world came crashing down that night. My youngest son was dying. Kevin was in McMaster for four months. I stayed by his side constantly. Kevin was in and out of ICU. He was on life support twice. Kevin suffered immense pain. His father didn't have to see what devastation that negligence caused. My family was torn apart.

Our support payments stopped and I couldn't work. Liam spent weekends with Kevin and me, sleeping at the Ronald McDonald House. By December I had learned to catheterize, monitor, feed and care for my son. I updated my CPR so that Kevin could be home for Christmas. I took Kevin to physiotherapy daily at Chedoke. I tried to do all I could to be the best mother to my boys. They knew I loved them and would do anything for them.

On February 1, 2004, I went out for the first time. I left Kevin and Liam with their granddad to play for an hour. I went to get Kevin's birthday presents. Kevin's second birthday was to be February 5. Kevin did not want to stop hugging his granddad that evening. It was their last goodbye. That night, Kevin was constantly telling Liam and myself that he loved us. He was blowing kisses and requesting kisses. Kevin knew that he was loved, and we knew he loved us.

That night Liam slept in my bed. Kevin was awake, crying until 3 a.m. I was so happy when I comforted him to sleep. Liam and I awoke at 6 a.m., allowing Kevin to sleep a few more hours. At 8 a.m. I went upstairs to get Kevin up for his physiotherapy. Kevin was smiling and staring right at me. I smiled, then I screamed as I picked up his lifeless body. I collapsed at the top of the stairs, screaming and holding him close. Kevin was gone. We called 911, and my baby was pronounced dead. Kevin succumbed to his injuries three days short of his second birthday.

My family's life and my own have been shattered. A part of me is gone forever. It is important to help me protect my remaining son. The Family Court system thinks that I am overprotective: Mediators and lawyers all seem to make issue that my estranged husband is Liam's father and that he has the right to visitation. I don't want Liam unsupervised with that man. I love my son and he needs to be protected.

In January 2007, the father of my boys is supposed to receive overnight unsupervised visits. What is wrong with the system? I'm a good mother. I will protect my son. It is so wrong that the system spends so much time worrying about the rights of the abusive parent. What about us, the victims? I will not let Liam go unsupervised with his father. If this makes me a criminal, so be it. In my eyes, the Family Court system is negligent for even suggesting to put Liam back into an unsafe environment. Do you know what it's like to lose a child? Can you fathom losing a child at the hands of their own father? Would you trust that person again with your child?

Kevin's father received a one-year suspended sentence for the negligence and one-month concurrent for abuse that I lived through. This is a man who threatened to burn down my parents' home if I were to move on with my life, a man who caused the death of my two-year-old son, a man who shows no remorse. Liam's father doesn't seem to care whether he is in Liam's life or not, so why is our system pushing it?

Most of these abusive parents have mental issues. They do not deserve to ruin a child's life. Kevin was not sick. Kevin probably would have lived a full life. I watched my son die unnecessarily. Now the system wants me to hand Liam back over, unsupervised, to his father. You need to trust fathers, and I do not trust this man with my child.

How dare the system deny victimized families appropriate protection? They leave it up to us to protect our children from these two-faced monsters.

This law is important. Our future is at stake. Our children are being jeopardized. I need time to grieve. This law needs to come into place. It's been two and a half years that I keep having to relive this nightmare and it's destroying me. Please take into consideration that there are many people like me living with similar frustrations. Please ease our stress and legally help to protect our children so that no more mistakes are made. Thank you.

The Vice-Chair: Ms. Latimer, thank you very much for your deputation. We understand that it has been a very difficult time for you.

You've completed your deputation. We have another 45 minutes, roughly, so it will be 15 minutes for each party. I'll start with Mr. Jackson.

Mr. Cameron Jackson (Burlington): Mr. Chairman, I wonder if I might read into the record a statement by Kevin's grandmother. Marjorie Latimer was slated to present today but she is taking care of Liam and did not want to leave the child. So the consequence of her not being here is that she wrote a brief letter. She asked that I read it into the record, for the record, and then we'll begin our rotation, and that would give Jenny a few moments to compose herself before we ask her some questions that will be of a difficult nature.

1020

The Vice-Chair: Thank you, Mr. Jackson. I will need consent from committee members. Do we have agreement on this? There is unanimous agreement, so please proceed, Mr. Jackson.

Mr. Jackson: Thank you very much, Mr. Chairman. This is a letter addressed to the Chair of the standing committee on regs and private bills and is dated July 10:

"This letter is submitted to you with information and real concerns for the safety of children who live in the province of Ontario and particularly my surviving grandson who is the sibling of the late Kevin Latimer, named in Bill 89.

"My daughter, Jenny, was married to Elliott Campbell and they had two children, Liam and Kevin. Elliott Campbell assaulted my daughter on many occasions, and

while she was pregnant with their second child, Kevin, Jenny Latimer was assaulted by her husband again. She locked herself in the bathroom and Elliott punched a hole in the door. She ran with her 18-month-old son Liam, and Elliott grabbed her by the neck from behind and shook her while she was pregnant and holding her son Liam. He threatened to kill her. He later apologized and said he loved her. The assaults continued on my daughter after Kevin was born. He used to punch her and tell her to shut the baby up. When Kevin was two months old she fled the abusive marriage with her two sons and found shelter at Halton women's shelter. Liam, who was two years old at that time, was examined at the women's shelter in my presence and he had finger-mark bruises on his rib area from Elliott Campbell squeezing him and telling him to shut up. He was never charged with assault on Liam. We were told it was excessive discipline.

"Elliott Campbell was formally charged with five counts of assault and one uttering death threat in Halton on my daughter Jenny. He was also ... found charged with criminal negligence causing bodily harm in Hamilton for my grandson Kevin. The charges were joined and dealt with in criminal court at Superior Court of Justice, John Sopinka courthouse in Hamilton, Ontario. Elliott Campbell pled guilty to one charge of assault and one charge of not providing the necessities of life. Elliott Campbell was sentenced to a period of incarceration of 12 months under house arrest. This house arrest ends this July 2006 and will be followed by a probation period of one year.

"Elliott Campbell has been seen by my daughter out in the community on a weekday, shopping and under the influence of alcohol or drugs, with his pupils dilated. All the while he is supposed to be under house arrest living with his parents. This situation had been reported to the probation officer by my daughter Jenny. There was some follow-up but to my knowledge no arrests or charges were laid.

"Kevin was 18 months old when he fell from the third-storey window of his father's apartment. Elliott Campbell was aware of the dangers of the unprotected window and yet he continued to ignore the safety of his children. He (Elliott) was intoxicated on the night of Kevin's accident on August 29, 2003. During the early part of the evening Elliott passed out from drinking and left the two children unattended to play by themselves. Kevin was taken by ambulance to McMaster hospital where he laid in the intensive care on a board, his neck broken, his spine severed and no movement. His vital signs were that bad it was a miracle he lived through the night. I was witness to Elliott Campbell's drunkenness that night in the hospital. Kevin developed pneumonia a month later, his lungs were not functioning and he was put on a life support.

"The devastation that our family has had to endure while Kevin suffered endlessly for five months after his accident was beyond belief. Kevin came home for Christmas and my daughter, Jenny, had to learn nursing skills to care for her son Kevin who was quadriplegic. He was paralyzed from the neck down with some movement

in his arms but had no feeling. His pain was so intense that he chewed his tongue in frustration and bit his hands from pain until they bled. He cried and he screamed with discomfort. No medication could help him during the last weeks of his life. Jenny had to catheterize him several times a day because he was unable to void on his own. Jenny cared for her two boys as a single mother with no child support from her husband. Jenny's days and nights were devoted to the care of her children. Through a trust fund Jenny received some financial support from a caring community that paid for the expensive equipment and special mattress and hospital bed required for Kevin to live in his own home.

"Kevin's last night was spent screaming and crying with pain. Jenny held him in her arms trying to comfort Kevin as best she could. He fell asleep during the night and was found in the morning. He had passed away in his sleep. Jenny found his lifeless body the morning of February 2, 2004. Kevin's life came to an end just three days" short of "his second birthday.

"Elliott Campbell has no remorse and his statement in Superior Court was one of self-pity. He currently has one visit per month for two hours supervised by Jenny. How safe is my daughter and her surviving son Liam under these circumstances? Elliott Campbell has conversations of having unsupervised weekend visits with Liam in the future. The thought of this is ... frightening. Elliott avoided a psychiatric assessment and in our opinion his behaviour has not improved or changed. Elliott had threatened to burn our house down and he had told me on more than one occasion that he thought of burning his parent's house down with them inside it. I reported this to police when Jenny left the marriage.

"In my opinion, Elliott Campbell has not been cured, nor has he received the psychiatric assessment that he was supposed to receive. Having a coroner's inquest into this tragedy would help the system see where mistakes have been made. Mistakes that could be rectified and save another family, another child from a tragedy such as this one. Our concerns are real, they are not vindictive. My surviving grandson Liam would be at risk to be left in another unsupervised situation with Elliott Campbell. The environment at his parent's home where he resides would not be ideal for Liam.

"My daughter has tried desperately to protect her surviving son Liam, as she tried to protect both her sons back in 2002. The system failed her and the boys, putting their safety at risk with an abusive and negligent man. I am asking you and the standing committee to please consider Bill 89 with the utmost attention. Help us to make the province of Ontario a safer place in which to live."

This is signed by Marjorie Latimer, Kevin's grandmother, Jenny's mother.

The Vice-Chair: Thank you, Mr. Jackson. We have 38 minutes left, so I will allocate about 13 minutes to each party. Would you like to speak to this or ask questions, Mr. Jackson?

Mr. Jackson: Yes, thank you, Mr. Chair.

Jenny, I want to first of all apologize for your having to be here. This is your fourth visit to Queen's Park. As you know, soon after Kevin passed away, we attempted to bring in a law. At that time, it was called Kevin's Law, Bill 78, the same piece of legislation. The good news is that it passed unanimously in the House—you were with me that day—but it did not get as far as this bill. I think it's safe to say that your presence here today has much to do with what you've learned about young Jared and his passing as well.

Is it fair to say that, as a parent, one of the reasons you want this legislation through is because of your concern that other children are at risk, and that now you've got yet several more families who have experienced the death of a child under almost identical circumstances? Is that one of the reasons why you're here today? I realize how difficult it is for you to come back and relive this, but is part of it to help the other families as well?

Ms. Latimer: Yes. I know there are other children and other mothers who have lost their children, other mothers who are afraid for their children going to their fathers' houses. And I'm sure it's vice versa: There are probably fathers out there who are afraid of their children being at their mothers' houses. But yes, it's not just us.

Mr. Jackson: You made reference in your comments to concerns about the children's aid society. You just briefly stated that children's aid visited your mother's home to determine if it was safe for Kevin. Could you tell us what that experience was like? Did they ever answer the question why the CAS never inspected where his father was living, which clearly was an unsafe environment?

Ms. Latimer: The children were in my custody, and I was their mother. They lived with me full time, basically, so they checked out my home. My mother would be a babysitter if I needed one, so they checked out her home just for safety reasons and everything. But Elliott lived in Hamilton, and it was Halton children's aid that I was dealing with. They just never checked out his house, I guess because it was out of the jurisdiction.

1030

Mr. Jackson: Is it not true that not only were there jurisdictional complications between the Halton children's aid and the Hamilton children's aid, but that this also became a problem, the different jurisdictions, for the court case because the assaults occurred in Halton, but the criminal negligence causing death—which was, I understand, the first charge against your ex-husband—was in Hamilton court?

Would you share with the committee, to the best of your knowledge, how that worked out in court for you with the plea bargaining and so on?

Ms. Latimer: Basically, when Kevin was in the hospital, lots of questions were asked, and everything that had happened in the past came out. Most of the abuse situations had happened in Halton, so we went to Milton court for that. But then he was in Hamilton court for the negligence, and they told me I would have to go through it twice and that they didn't want to see me have to go up

on the stand with the two different situations and that they would send it over to Hamilton. I really didn't want to go through it twice, so it was more important what was happening to Kevin than what had happened to me.

Mr. Jackson: Who advised you that you perhaps would not want to go through this process twice?

Ms. Latimer: The crown and Elliott's lawyer.

Mr. Jackson: The reason I raise that is that I'm familiar with the details of all four of the women, Mr. Chairman, who are coming forward with their stories today, and there are some frightening similarities that appear in each of these cases. One of them is the kind of advice the legal system gives to women. In each of these cases we're dealing with women who are the victims of violence, and where violence is perpetrated on the child as well. But from the research and the work I've been doing on this bill for the last five years, even I was surprised at the level of complication that the legal advice is putting people in, and cross-jurisdiction. This theme will surface throughout the balance of today.

I want to come back if I can, Jenny, to the CAS. You mentioned in your presentation that there was a period of supervised access. What I found unusual here is that you were required to do some of the supervised access, and your mother was provided to do supervised access. Here is clearly abuse, death threats uttered against a mother, yet our system of supervised access said it was okay for you or your mother to be present with Elliott for the supervised access and to do the transfer of the children.

Could you expand a bit on how that made you feel, given the circumstances you'd gone through?

Ms. Latimer: I want my son protected, and if I'm there to watch him, at least I know he's safe, rather than being by himself. Originally, after I first left my husband, there was a CAS worker and she supervised through the summer periods. They took the children to a park and there were a few incidents, and eventually she got a little frustrated. Then my mother took over with the visitations. I've only done the supervising in the last six months.

Mr. Jackson: Were you aware at the time that supervised access for the children's aid is really not a dedicated budget item, that in a period of budget restraints, CASs are not able to provide as much supervised access as they would under normal circumstances like to? Again, I'm raising this question because, were there to be a coroner's inquest, which is what the whole point of this bill is, questions like this would emerge as a positive recommendation to this government, to say, "You can't provide a few dollars for supervised access and put it in a global budget. When CASs are running \$80-million, \$90-million and \$100-million deficits this year, this is an area where they get cut."

So we can't specifically say the Halton board stopped the supervised access because they didn't get funding, but that's essentially what their message is when I talk with the CAS, because here's evidence that he had demonstrated violent outbursts to another child. It was cut short. We're not even sure if the incident was

reported. But soon thereafter, Elliott was deemed to be stable enough to have unsupervised access.

Ms. Latimer: He had to attend this men's group. I mean, it's probably one hour once a week for eight weeks. There's no real proof. If they attend, they've accomplished it, unless they have some violent outburst. This is a person who can fool you. He can sit for an hour and smile, as I'm sure many of them can, and pretend to be someone they're not. But when you get to know them and you know the way they act behind closed doors, it's totally different. I don't think the psychiatric evaluation was ever followed through with, because the men's group was completed the week before.

Mr. Jackson: And to our knowledge, we've no way of confirming that he took the course or that he achieved any level of compliance. None of this was shared. We've been unable to get any confirmation of that.

Ms. Latimer: Even originally, when I had asked him about the psychiatric evaluation, he didn't even know the man's name—it wasn't a doctor, it was a man, he said. It could have been just a story. He didn't know who it was who had done it.

Mr. Jackson: And did this not come out in the court case at all? So even the crown attorney who had encouraged you to merge the two issues in court in Hamilton—this matter was not raised about how he did with the anger management program?

Ms. Latimer: That was ordered in Family Court. I think that would be the difference. It was criminal court where his charges were, of course. We're still going through Family Court for custody and divorce. I'm not divorced.

Mr. Jackson: It's fair to say that he plea bargained his assault charges on you in order to lessen the impact of the criminal charges against him for the death of your son.

Ms. Latimer: Yes.

Mr. Jackson: Yes. We are about to hear from Julie Craven, and we will find that those are exactly the same circumstances that are confronting the Craven family.

How much time do I have, Mr. Chairman?

The Vice-Chair: You have three minutes left, Mr. Jackson.

Mr. Jackson: Thank you very much, Mr. Chairman.

So you received no report from the CAS; they just abruptly told you that they no longer wished to do the supervised access and that your mother and you would be responsible for the supervised access.

Ms. Latimer: It was actually my mother or Elliott's sister who was allowed to supervise at that point.

Mr. Jackson: And does Elliott currently have any access at all to Kevin in a supervised way? I'm sorry—to Liam.

Ms. Latimer: I'm supposed to supervise one visit for two hours once a month, and it's been four months that I've found reason not to bring Liam, three or four months.

Mr. Jackson: And the court has ordered that Elliott have access—

Ms. Latimer: It's at my discretion still, because we're still going through divorce and custody. I have the

discretion not to bring him, which I have chosen not to do.

Mr. Jackson: But the courts failed to recognize that it wouldn't be in the child's best interests to see—

Ms. Latimer: No, they don't. This is why we're going back and forth so much. The mediators all say that this is the father of Liam and I can't withhold Liam forever, and the lawyers are saying the same thing, that that's his father.

Mr. Jackson: And for the record, exactly how old is Liam right now?

Ms. Latimer: He'll be seven in March.

Mr. Jackson: And he has demonstrated a real reluctance to have any contact with his father.

Ms. Latimer: When he was younger, he never wanted to go, and now it's not his father; he won't admit to even having a father.

Mr. Jackson: Okay. Jenny, I want to thank you. It takes a tremendous amount of courage to be here. You have to relive the nightmare again and again, and there are a lot of families who support you out there. We've received hundreds of letters of support.

This is not a very complicated piece of legislation. It essentially says there are serious problems in our court system, the way our children's aid societies deal with children at risk. There's even going to be evidence during today about the manner in which the courts plea bargain, the dual tracks: unsupervised access and supervised access programs. Only through a coroner's inquest do you believe that an opportunity like this will allow the real story to come forward so that you can have people listen and understand what you had to go through and where the system failed Kevin.

1040

Ms. Latimer: Yes, it'll prove it. No one wants to admit that there is a problem, and there may not be just one problem, but somewhere along the line something is going wrong and it has to be fixed. It just can't be looked over all the time. Move on with it.

Mr. Jackson: And finally, your concern is that in the decisions that are made, whether it be by the children's aid, by our court system, even by the police in laying charges, the best interests of the child should always be paramount in our laws?

Ms. Latimer: I don't quite understand what you're saying; I'm sorry.

Mr. Jackson: Well, currently, in divorce, separation, custody and support issues, the complications that occur, wrapped around that is the situation of abuse. The system is not well designed for families that are in abusive situations. That is, in my view, where the law goes awry. If the law were to focus on what's in the best interests of the child, then we might prevent some of these unnecessary and tragic deaths.

Ms. Latimer: Yes, and they have to also realize that an abusive person doesn't change right away, and that it's not the mother's fault. Quite often, the CAS look at me as if I'm not the appropriate parent because I can't protect my child. I'm protecting my child by leaving, but

because I was in the situation in the first place, therefore it's my fault. That doesn't make sense.

Mr. Jackson: Thank you, Jenny.

The Vice-Chair: Thank you. Ms. Horwath, comments or questions?

Ms. Andrea Horwath (Hamilton East): Thank you, Jenny, for once again coming and sharing your nightmare with us. It was a very powerful presentation.

I wanted to ask just a very few questions, particularly around the CAS and whether or not there were any opportunities for you to raise your concerns, first of all, about—you had said during your presentation that you raised concerns but you didn't feel that the CAS was taking them seriously. Can you expand on that a little bit? Did you go through any formal complaint process with the CAS about the decisions they were making?

Ms. Latimer: I wouldn't say "formal." I've spoken to them—even recently I've spoken to them—and said, "What happens if Liam has to go back?" An incident has to occur. Then I can report it and then they will get involved. There have been so many incidents along the way, I don't want another incident to happen in order to protect my child.

Ms. Horwath: I wanted to ask a little bit about the issue around how the decisions were made about who got to supervise the access sessions. I think Mr. Jackson indicated that that was felt to be a situation where the CAS was no longer able to financially cover the costs and therefore that job was put on yourself and your mom.

Ms. Latimer: I think there were frustrations because they didn't have the budget.

Ms. Horwath: And again, was there any opportunity to raise this with anybody in the CAS as being something you thought maybe was not appropriate?

Ms. Latimer: We've been back and forth with the CAS so many times, I think they know how I feel. In Halton and Hamilton, they both know how I feel. So I don't completely understand how they work, but I understand it's a budget issue.

Ms. Horwath: I'm asking the questions around the CAS because there has been a great deal of attention around the lack of accountability of CASs, the amount of real power and ability to be involved in the lives of children and families, yet the accountability systems aren't where they should be, in the opinion of many people. The government came forward with some changes to legislation that they claim will take care of that, although surprisingly enough, a year down the road from that legislation being dealt with, the portions around accountability, their solutions to accountability, are still not in place.

There are some people who believe that there needs to be a separate opportunity for oversight—somebody unbiased, somebody totally out of the system who can look at systemic problems, problems like the ones you identify, problems like I'm sure we're going to hear for the rest of this day, that are part of the system that when you're in the system you maybe don't identify as easily as if you're someone looking from the outside in. I speak

particularly about the Ontario Ombudsman in terms of oversight of the CAS. I don't know whether you have any thoughts about that. I know your focus has been elsewhere, but do you have any thoughts or comments about that?

Ms. Latimer: Just the one thing I've noticed over and over again is that you can't just focus on the person who's taking care of the child. If there's another parent who potentially can be a parent and have visitation rights and be unsupervised with that child, it shouldn't matter whether right now they're a full-time parent. You should be able to look and see the problem with them as well because that's most likely where the problem lies. Instead of taking the victim who is vulnerable and easily manipulated and making them feel more victimized, put your attention on the person who's the problem.

Ms. Horwath: That's a system problem that you've identified, and you don't see any changes even to this day with the—

Ms. Latimer: I've been through it over and over again. With different CAS workers, I always kind of come out of it feeling victimized because I've got myself in that situation in the first place and I should protect my child. He's not there, so it's not a concern of theirs.

Ms. Horwath: I think everybody in this room would tell you that we know that this is not your fault. You need to know that this is not your fault. It's very difficult to hear that these systems that governments put in place to assist with these problems end up making women who are facing the kinds of horrors that you've been facing feel even worse. It seems to me there's something upside down about that situation.

I have one last question, and that is the idea around this bill and the extent to which not only will it hopefully address the issues around what happens after a tragedy takes place. In the House when we debated the bill when it hit second reading, there was a discussion around the fact that when children die in this province, there's no automatic review of that, and that's not the same case with other groups of people, if you want to call them that. So there's that piece and then there's also the piece around how decisions are made about custody and access of children in the process. Do you think that if these pieces are put into place, we'll begin to see some accountability and some change in the way not only children are dealt with but parents are dealt with in the system?

Ms. Latimer: I hope so. Anyone who can see what I see and what Julie sees, if you can take that moment and put yourself in that situation, should make changes.

Ms. Horwath: Thank you very much, Jenny. I want to say that as a person who has gone through the things that you've gone through, you're a very strong woman. From the day that you left that situation, you were doing the right things.

Ms. Latimer: Thank you.

The Vice-Chair: Ms. Latimer, committee hearings are taped, so please try to speak into the mike a bit more so that taping can be done more effectively.

Members from the government? Mr. Levac.

Mr. Dave Levac (Brant): Further to that observation, can we get a hard copy of the presentation that has been made so that we can have it for our records? Thank you.

Jenny, thank you. Absolutely no one, and I spoke to Julie about this, knows your pain—no one. For anyone to say they do is not right. First of all, thank you for your bravery to come forward and to help us change the province of Ontario to keep Liam and other children safe. I got from your deputation that that is obviously your intention. So I appreciate your bravery and I appreciate the fact that absolutely no one knows your pain.

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I also want to publicly thank Mr. Jackson for his tireless efforts on this particular topic. I know that Cam has worked very long and hard on these particular issues. I'm not sure that he would say so, but he has become somewhat of an expert in this field. I thank him, and I appreciate the work that he's done.

I'm also here to listen very carefully. I've tried to listen and tried to understand the circumstances behind each of these situations, and I can't fathom anything close to having to be exposed to those situations. Some people go through those and are capable of expressing their feelings, and I appreciate that. We can't move forward until we understand or at least get a glimpse of what the pain is for you, what the pain is for your family and your extended family and even as far as your friends. That's the difficult part for us: to try to turn it into the good that I know you want to do.

You've heard two rounds of questioning—and I'm going to defer a couple of questions to my colleague. What I tend to like to do is, after having a major deputation—because you're focusing your energies to try to get through it, and I appreciate that. You're listening intently to these questions. Has there been a question that hasn't been asked that you've been prepared for? Has there been a comment that has come to your mind that you need to make, on top of your deputation? If there's anything in that area, I'd really love to hear it, because sometimes that's when we unfold some of the details that need to be heard—things that will make you feel confident that we're getting what we need to hear.

Ms. Latimer: I hope you understand how I'm feeling, because—

Mr. Levac: Yes, absolutely. I have to come back and say I don't understand, but I empathize. So thank you for doing that.

I'll continue to listen very intently. I will be saving some of my questions for the ministries, because they're the ones that have to get through this technical part of it—and I'm sure Mr. Jackson understands that as well—because that's who we want to get specific questions. Hearing your case helps us build our questions for the ministries. So if you don't hear a lot of specific questions about it, it's because we're trying to build in our minds the questions that are necessary to put to the ministries.

I'll defer. I do want to thank you again for coming forward, and I do pray to God that someday the pain will subside somewhat. It's very difficult to say, but I

understand. My mother is 83 years old and she still thinks about a lost two-year-old child. So I just want you to understand that your pain is never going to go away, but you need to know that people do care about what has happened.

The Vice-Chair: Ms. Sandals.

Mrs. Liz Sandals (Guelph-Wellington): Thank you, Jenny, for your courage in coming here. It must be very difficult. I don't think I could do what you did. Your determination to protect Liam comes through absolutely clearly.

I want to, if I may, just clarify a couple of things about the trail of Family Court access, because, clearly, the issue you want to raise in part is this whole business of court-ordered access. I just want to make sure that I've got the trail clear in my mind of how the family courts played a role in this. It's my understanding that when you originally left your former husband there was a Family Court order for supervised access. Is that correct?

Ms. Latimer: It was supervised access until he had completed the men's group and the psychiatric evaluation.

Mrs. Sandals: We've heard about how that was initially supervised by children's aid and then it fell to yourself and your mother to provide the supervision. At the point where it went from those supervised visits to the unsupervised visits, did you have to go back to Family Court or was it just automatic: Here's the course; the completion date of the course has passed; because the completion date has passed, you don't have to go back to court?

Ms. Latimer: No, we didn't go back to court. December 16 of that year was when he was supposed to have everything completed, and it just kind of flowed.

Mrs. Sandals: So it was just taken as a given that because the court had ordered that he would participate in the anger management program, that would happen. There wasn't a double-check to find out if that—

Ms. Latimer: Not that I know of.

Mrs. Sandals: It just flowed; okay. Then the current situation you described, which is one supervised visit per month: How did that come about? What was the process that led—and again, I assume that's a court order.

Ms. Latimer: It was actually ordered through criminal court. We were seeing a mediator for our divorce, and it was in criminal court that I signed the papers to supervise, because they said that he would go for joint custody if I didn't agree to this way of access and that it would be harder on me down the road.

Mrs. Sandals: So this was actually part of the criminal plea bargain, then? Was that at the same time?

Ms. Latimer: It was during criminal court; we did it in criminal court.

Mrs. Sandals: So this actually went back to the criminal hearing in Hamilton.

Ms. Latimer: My family lawyer told me through Elliott's criminal lawyer—Jeff Manishen, the criminal lawyer, had told him to have the access, or they would go for joint custody.

Mrs. Sandals: So this almost became part of the probation order or something.

Ms. Latimer: Yes, basically.

Mrs. Sandals: But you fortunately got some discretion in there.

Ms. Latimer: It's at my discretion and it was supposed to end July 14. Then the mediators got this whole plan done up that he was supposed to have access on the weekends, and then unsupervised by January, but I haven't signed the papers yet. So I'm using my discretion right now and not—

Mrs. Sandals: So this is obviously still all very much up in the air, how it's going to land.

Mr. Jackson: While he's under house arrest, Liz. It's while he's under arrest she has that discretion. As soon as his house arrest is over, he's deemed to be free and accessible to his child.

Ms. Latimer: When the house arrest is over.

Mrs. Sandals: So you're under the same sort of situation you were initially, where there's some presumption in the order that things will improve; you're under that same situation again, that there's a presumption in the order that he's served his criminal penalty, and then it will move on to greater access.

Thank you for clearing that up, because I didn't understand that. So thank you very much for clearing up that track for us.

The Vice-Chair: Thank you, Ms. Sandals.

Any further comments or questions?

Ms. Latimer, we, on behalf of the committee, want to thank you once again for coming forth this morning to provide us with your deputation. We do appreciate the difficulty and the pain that you've gone through.

Ms. Latimer: Thank you.

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JULIE CRAVEN AND JOHN CRAVEN

The Vice-Chair: Our next deputant is Ms. Julie Craven.

Mr. Jackson: We need some technical assistance.

The Vice-Chair: Okay.

Are you ready, Ms. Craven?

Ms. Julie Craven: Yes, I am.

The Vice-Chair: You will have up to one hour, and if there's time left then there will be questions and comments from committee members.

Ms. Craven: Forgive me, but today, when you have time, whenever you glance over there, I want you to see that my son is not a statistic. Five and a half months ago he was brutally and viciously murdered by his own father. Sitting before you right now is an empty husk of a woman. I don't have much will to live but I realize I have to go on. My son had no siblings. He was my only child, two weeks shy of his ninth birthday. I am the only one left who will keep his memory alive. This fight for Bill 89 and to grant a coroner's inquest into my child's death is what is keeping me going right now.

Forgive me if I have the videos and I have a few photographs. I can't help it. It's only been five and a half months. You may want to look at these pictures later. There are no baby videos of my child. His father always kept them from me. So there's a few of when he's a baby.

Now I'm going to start.

My name is Julie Craven, formerly Julie Osidacz, until the night of my son's murder. I only kept this name because it was my beloved son's last name.

I'm going to tell you a little about my hell of a marriage of five and a half years. We were married October 5, 1996. I was two and a half months pregnant at the time. I had known this man briefly back in the early 1980s when my best friend worked with his eccentric mother and I had seen him play in his band at various locations. I didn't know him well but my friend had told me at the time, many years ago, that he was interested in dating me. I had no interest in him at the time as he seemed very shy and dominated by his mother.

In March 1996, I met him at a local establishment where a blues band was playing. I hadn't been out for a long time and my younger sister persuaded me to go out with her that night. She noticed that a man kept staring at me intensely that night and then he came up and introduced himself. "Aren't you Julie Craven?" I suddenly recognized who he was and spoke to him for a while. My sister mentioned a dance on the next evening, and I think she was trying to get him to ask me out.

The next morning at work, where I served at a restaurant, this man appeared and I served him. I was taken aback at his sudden arrival but I remember my co-worker telling me how nice and cute he seemed. We talked briefly and I gave him my number. He then asked me to this dance. Ever since this first date he wanted to see me every day. At first I was flattered, but still a little wary. I was 34 and single and living on my own.

His constant attentions convinced me he was serious about a relationship, and he visited my home almost every day. Because of us seeing so much of each other, when he asked me to become engaged in July 1996, it didn't seem so rushed. I moved into the home that he rented, as he still lived with his mother at the time at the age of 32. I moved in with him at 18 Cecil at the end of July of that year and we planned to get married. I was disconcerted about the closeness to his mother's address three doors down, but he assured me that this home would only be temporary, maybe only a year. I contributed to the cable and phone payment and towards the mortgage. I didn't know how much it was but I was still working at this time.

I know the exact date of my son's conception: July 14, 1996. But I did not try to get pregnant. Without going into details, Andrew Osidacz made sure that I got pregnant on this day. By August, I knew I was pregnant for sure and now we had to rush to plan a wedding as I believed in marrying when you have children and, believe it or not, I was in love with this man. Andrew seemed excited about the pregnancy and the upcoming marriage.

I remember the night of the reception where his family in the wedding party totally ignored me and rarely spoke to me. When it was time for us to leave, I tried to say goodbye to Elizabeth Osidacz, his mother, but she kept her back to me without acknowledging me.

I remember right after the wedding, outside the church, my friend Diane told me that I was in for trouble as his mother was a witch and she could spot them a mile away. This woman was telling people at my own wedding that she wished he was marrying someone else.

Less than 24 hours after our wedding, at 11 a.m., there was a knock at the door, and his whole family arrived with the wedding video and went downstairs to put it on the TV. I followed them down, my hair still in pins from my wedding hairdo, and watched the video as his family made snide remarks about my own family. I tried to remain polite.

This was a Ukrainian Catholic ceremony, and a very long one. During it, the priest asked me if I will give up my life for Andrew. Andrew's mother looked at me and snickered, "Would you die for my Andy? Would you? Because I have a bottle of rat poison in my garage, and you can come over and drink it." I was completely shocked, as I was carrying her grandchild. Andrew laughed with her and said later that his mother has a different kind of humour than most.

After our honeymoon in Montreal, Andrew, who took over the wedding money—about \$3,000—put it into a chequing account, and this would become the only access to funds I had after I stopped working at six months into my pregnancy.

I had two ultrasounds. At the first one, Andrew stormed out when they told him that he would have to wait until the technician was ready. I cried and watched my child on the screen alone—but happy that everything seemed to be okay. I went to work crying and holding my child's first photograph. Andrew could only yell at me and blame the staff at the clinic.

At the second ultrasound, Andrew swore up and down that he would attend and hold my hand. Well, when it came time again when I was almost eight months pregnant, as I lay there with the wand over my belly and the technician told the nurse to bring in the husband, I smiled at him in the doorway. He just glared at me and punched the door and stormed out. Again, a moment that should have been a happy one to share with the father of your child was sabotaged. I cried tears of sadness and joy again when the screen was turned towards me and everything was fine with my child.

I wanted the sex of my baby to be a surprise, but I always sensed I was going to have a boy. When it came time to pick out names, I only seemed to be concerned with boys' names, and when I came across the name Jared, which means "descended from heaven," "a gift from God," I knew this was the name for our child.

When I was eight months pregnant, I brought up his cruelty to me during my ultrasounds. He got on the phone, held it out and said, "Listen, Mother, she's crying again. Oh, boo hoo." I immediately went up the stairs to

the kitchen and before slamming the door I yelled out something like, "You son of a bitch." Suddenly I heard a roar and a running up the basement stairs. Terrified, I ran to the bathroom and quickly locked the door. I heard a smashing sound, and then running down the hall. Then the entire bathroom door came smashing down, almost landing on top of me. I was sitting on the edge of the bathtub and, terrified, started to retch into the tub. I was worried about losing my baby. He yelled out, "Don't you ever slam a door on me again."

Later, his mother came over and, looking at the hole he had punched into the kitchen door as he was busy fixing the bathroom door, she looked at me and said, "You should never slam a door on a man, dear. It's not right." Obviously, she had no concerns about his abusive behaviour towards me.

Being pregnant and married, you can overlook a lot of things. I tried to convince myself that as he hadn't actually used his hands on me, this wasn't physical abuse. The house was in terrible disrepair but Andrew would not spend any money on fixing up the house, not even the nursery. My father came over and at his own expense wallpapered the baby's room. Andrew's mother would keep bringing over 15-year-old faded and dirty baby clothes from her other grandchildren, clothes that I would not even give to charity, and she expected me to dress our first child in these clothes. My parents were disgusted.

When it came time and I went into labour, it turned out that I had back labour, which is like multiplying the pain of normal childbirth 1,000 times. My labour lasted about 16 hours and Andrew was, I admit, a full participant as my coach, but this could also express his complete control. I had an emergency C-section after my blood pressure was too high. When I saw my Jared for the first time as Andrew held him out to me—of course, still at a distance, as if he was claiming ownership of him—I was filled with such awe and sudden love, and realized, "So this is what love means." Jared was the most beautiful baby, with a full head of black hair—he even had sideburns—and big slate-dark-blue eyes, almost dark grey. As we locked eyes together, an instant bond began.

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I was paralyzed from the waist down, so they took me into the recovery room to check on my blood pressure, but I demanded my baby. The nurse placed Jared on my chest, and as I opened my gown, he looked up at me and then went straight to my breast. This first nursing of my son lasted only a moment, but the experience is burned into my brain for all eternity.

I had to be put in my room to recover, and they took Jared to the nursery. I remember Andrew looking at me as he sat in the chair beside me, and he told me he would cut off his right arm for our son and take a bullet for the both of us to protect us. Well, this man did take a bullet for us, on March 18 of this year, but he murdered his child first and then attempted to kill me at knifepoint after he told me what he had done.

I remember the next morning, when they brought in my beautiful baby Jared. He was still sleeping in his cot. Then he woke up, lying on his side, and he looked up to the side and all around the room, as if checking out the whole room and his new world. He was already very curious at one day old.

When Jared was about three weeks old—I had been with him 24/7, exclusively breastfeeding him and enjoying every moment with him—I decided I had to get the house cleaned properly. My mother was chomping at the bit to take him for a walk in his pram. I finally relented, still insecure about being away from him, but I realized that my parents were so overjoyed about their first grandchild and so proud to show him off.

My mom and dad arrived that sunny afternoon, and my mother headed off with Jared towards her house, beaming with a big smile, while my dad went off in the other direction, walking the dog. He saw Andrew's mother staring out her window three doors down, as he went down the street. I went downstairs to tell Andrew, and he just nodded his head. Then, as I was standing in the bath, cleaning the walls, I heard footsteps on the gravel driveway and looked out the window to see Andy and his mother putting the baby seat into his car. They then peeled out of the driveway. All of a sudden I felt sick and tried desperately to get my mother on the phone. When she finally answered, she told me I was in for a lot of problems with that man and that he was mentally unstable.

As my mother was walking towards her house, with Jared in the pram, she saw Andrew's car in her driveway. He walked towards her and demanded his baby. My mother asked if I was okay, was something wrong, and he just told her that it was his son and that she had to hand him over. My mother let him take him, and when Andy and his mother arrived, with Jared crying in his arms, I was hysterical and could not believe what they had done. "It's my son, missy," he said. "Yes, it's his son," said his mother.

I told them that as Jared's full-time mother, I didn't need his or his mother's permission to give my mother the chance to walk Jared in his pram. I demanded that he give me my baby, as Jared was crying, and he refused. I went into the bedroom sobbing, not believing what had taken place. After about 10 minutes of begging him to let me feed Jared, he finally gave him to me and told me to feed him, and that he was then taking Jared to his mother's for a while.

Many women will tell me that they would never let their husbands get away with something like this, but unless you have lived with a control freak, a sociopath, you don't understand: The more you protest, the more they dig in their heels.

My son's christening reception was unattended by his own father, who decided to spend this day with his mother by her pool. He dropped me off at home after the christening and then just disappeared before the guests arrived. I was embarrassed, but I was determined to celebrate my son's christening with or without his father.

When the guests left and Jared was asleep, I sat outside his window crying, with a glass of fruit punch beside my lawn chair. Andrew appeared, and when I asked him where he had been, he said that he wanted nothing to do with my stupid reception. Then he stepped on the glass, shattering it, and said sarcastically, "Oops."

There were many phones smashed by Andrew in that marriage, and I was once hosed down in the laundry room with cold water when I refused to pick up his tool case, which I had tripped over and almost broke my neck. He once twisted my arm so viciously when I was on the phone to his cousin, who was inquiring about his Aunt Lil, who had had a stroke. I explained her condition to him, and in pain I told him that I had to get off the phone. He asked if I was okay. I just told him that Andy wouldn't be answering his calls. Andy yelled at me, "How dare you discuss my aunt with other people?" Yes, would you believe I was this man's wife, his next of kin? I left that day with my son, when Andy was out at his mother's, and went to my parents'. He immediately changed the locks and later demanded to see his son. The police told me that as he was a co-caregiver, I could not refuse his seeing his son.

He kept asking me to come home for Christmas Eve. This was in December 2000, and Jared was three. After promises of changing and seeing a counsellor, I relented and went back. All his mail still went to his mother's, I still had no access or information about his finances, and he still treated me like a tenant, not a wife in my own home. He built a wall to his home office and kept the door locked at all times, even when he was in it. He built a shed—took a few weeks off one summer and built a shed—then, when it was finished, he refused to give me a key. I got tired of knocking on his office door to tell him his dinner was ready and him opening it up a crack, not letting me enter. I started calling him on his business phone from the upstairs phone, asking him if he would like to come up and spend some time with his son before he went to bed. He practically lived in this office when he wasn't at his mother's. He would go away for a week at a time on business, leaving me with less than \$50 in the chequing account. He would say that if I ran out of money, I could always call my father. The company car that I was allowed to drive before we married, and until Jared was about three months, around his christening, suddenly became off limits and he would hide the keys from me when he went on plane trips. He would even hide the cable wires on the big TV downstairs so I couldn't watch it when he was away.

There are so many humiliating and abusive behaviours I endured, but I will get to the night of the assault, on April 23, 2002. On this night, I was viciously and brutally assaulted by Andrew Osidacz. He had kept my son's videos—birthdays, christening, Christmas and any others—hidden from me. I couldn't understand his enjoyment of denying me the pleasure of seeing my son on video, but for five years, when I would beg for him to let me see them, he would say, "I don't have them. Don't you have them?" I was at the end of my rope. I would cry over the phone to my mother that I would become an old

lady with no videos of my beautiful son. Now I will become an old lady without my lovely Jared at all. My mother would tell me to stop letting this upset me, as it gave him more feelings of power. To this day, all I have is a few minutes of Jared as a baby tacked on to the end of the wedding video—his christening. I have never seen him, from three months to the age of five, until my father purchased a camcorder after Andrew's arrest. I have never found these videos of my son.

That night, after I had put Jared to bed hours previously and was sitting on the couch around 11 p.m. reading, Andrew came upstairs and entered the bedroom. We had not slept together since Christmas Eve 2001, and he usually slept downstairs, which I preferred—now, if you'll excuse me, this is graphic—as he was obsessed with masturbation, and this is all he ever wanted to do, as I had to watch. This actually disgusted me, and even on the few occasions when we did have normal intercourse, it always ended in the same way.

I was beside myself over Jared's videos, and the previous month in March, when Andrew had asked me what I wanted for my birthday I answered, "My child's videos." I entered the room and told him to get out of my bed. He refused. I then asked him to give me the videos. He said, "I don't have them. Don't you have them?" This was the last straw, as he had used this line for five years now and Jared had just celebrated his birthday on April 4 with a party at the bowling alley, and here was another event I would never get to see again. I told Andy that I was going to open his office door and get them. I figured this was where he kept them. He said, "Go ahead." I went downstairs into the laundry room, grabbed a screwdriver and calmly walked up to the office door and tried to get it open. I realized this would be impossible, as the seam on the door seemed impenetrable.

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Andy had followed me downstairs, and, standing about 20 feet behind me wearing only boxer briefs and with his arms folded, he told me to go ahead. I turned around and, thinking that if I seemed determined enough, he would relent and open the door, I turned back to the door and pretended to get it open with the screwdriver. I damaged the wood a little bit.

Suddenly, I heard a loud growl behind me, and before I knew it he was behind me and had lifted me up in a vertical position and started bashing my forehead into the locked door like a battering ram at least five or six times, until the door burst open. He threw me into the room and picked me up and continued to throw me around like a rag doll into walls and filing cabinets, and then he, with closed fists, punched the back of my head about 10 times.

I was in complete shock and my feet hardly touched the ground. I must have dropped the screwdriver when he was ramming my head into the door, and we all know now what could have happened if he had picked it up.

Then he threw me back into the rec room. I was actually airborne and landed beside the coffee table, banging into it. I was on my stomach when he came and turned me over onto my back and started banging my head

against the thinly carpeted but concrete floor. My sweat-shirt was covering my face and I could hardly breathe. I suddenly realized he was going to kill me.

Just as his hands started to grab my throat, I screamed out, "You're killing me!"

Boom. He stopped. He was on his knees and holding his hands as if in prayer. "I'm so sorry. I'm so sorry. But you know you drive me crazy." Here, after attempting to kill me, he put the blame on me, the victim.

Today, I thank God that my little five-year-old Jared, who only came past my elbow at the time, did not wake up and come down while his father was in this inhuman rage. He was like a pit bull with a cat. We all now know he would have attacked Jared that night. All I know is that I would have fought to the death to protect my son.

After trying to stop me from getting up the stairs, he finally relented, shrugged his shoulders and said, "Oh, guess I blew it." I walked up the stairs, my injuries not kicking in yet, as I was still in shock. I was afraid to enter my Jared's room, as I didn't want Andrew following me in there.

I went into the bathroom with the door open and checked my bruises. My entire forehead was bruised and the undersides of my arms were black and blue. I realized later I had terrible bruises on my ribs, chest, back, buttocks and legs, and around my cheeks and chin, with a cut lip.

I told Andy to leave and he refused, saying if anyone was leaving it would be me. He was afraid of what I would do and asked me if I was going to the hospital. I would not speak to him. He finally went back downstairs and I checked on my child. I hugged Jared and kissed him as he remained asleep. I was afraid to call the police, not knowing what Andy would do if they arrived. I called my parents' house. After getting out that I had been beaten, as I could hardly speak over the phone, the whole house was awake, and I could hear my parents and my brother and sister yelling that Andy had beaten me. My mother told me to get Jared ready with some clothes and my dad would be right over.

When my father arrived, he asked, "Where is he?" I told him he was at his mother's, but he didn't believe me. My father saw Andy holding something in his hands at the bottom of the stairs. He went down and I followed him, worried about my elderly father, who is five foot, four inches.

There he was, now fully dressed just minutes after attacking me, sitting in a recliner with a video camera in his hand, beckoning my dad with his other hand. "You going to hit me, John? Don't hit me, John."

Of course, he was self-editing this tape, as when my father would yell, "How dare you beat my daughter?" he would push the stop button and start it up again, and my dad would try with anger in his face to get the camera off him.

Then my brother and sister, also of small size, entered the basement and started calling him names like "mama's boy" and "wife beater." They also tried to get the camera off him, but nobody touched him.

Then we all went back upstairs, and my brother and sister waited in the driveway as my father told me to get Jared ready and we would go to their house.

Suddenly my father, who has angina, started to grab his chest, and my sister called him an ambulance. Then I heard from the bottom of the stairs in the calmest, coolest voice, "I never touched your daughter, John. Would you like a glass of water?"

Well, I threw down the bags I was going to pack and picked up the phone and called the police. I reported that I had been assaulted and that he was still in the house. The police and the ambulance seemed to arrive simultaneously. So did his mother. Suddenly she was in my house trying to get down the stairs, probably to get the videotape, and I told the police to get this woman out of my house. She screamed out, "This is my son's house." They made her leave, and as my father was being led to the ambulance on a stretcher with a possible heart attack, she said she wanted my dad charged with assault. It was probably her idea in the first place to tape my dad as he arrived, as Andy wouldn't even have blown his nose without his mother's permission. She had such control over him, the strongest Oedipus complex I have ever witnessed in my life between a mother and her son.

One officer stayed upstairs with me and the other with Andrew in the basement. My mother called, and I told her that dad was sent to the hospital and my sister was with him. My mother demanded to speak to the officer, as she was screaming that I needed protection from that man: "He's a monster." I told my mother that he was taking my statement and I still didn't know what I would be doing with Jared, as he was still asleep. Still in shock, I quickly read the short-form statement that the officer had written, which did not contain half of what I had gone through, but I signed it, not realizing how important a statement is. They should let you write out your own statements in these situations.

I watched as Andrew Osidacz, my son's father, was led away with handcuffs behind him. I cried, thinking this was my son's father, and I was crying for Jared. I was told later that as Andrew was in handcuffs in the back of the police car, he asked the police if he could have me charged with breaking and entering his office door that he had rammed my head into. The police never told me to go to the hospital, but left me with their cards and the number of victims' services. Then they left.

My sister returned from the hospital that night, telling me that our dad would stay at the hospital overnight for tests. We went into the now-open office and started looking for Jared's videotapes. I did not find them, just some pornographic tapes. I started going through his papers and discovered that he made over \$1,200 every week. I also learned that his mother was the beneficiary on almost every investment, and the mortgage papers were addressed to Elizabeth Osidacz and Andrew Osidacz as if they were a married couple. He was the sole owner of the house and she was the guarantor. It was as if I didn't even exist.

Suddenly, my sister pulled out a recording device from under one of his desks. It was attached to a jack

which ran to the upstairs phone. My sister called my mother from the portable home phone and suddenly the device started up. Then she hung up and told my mother to call back. When she did, the device started up again. I found about eight actual tapes that night, all containing incoming and outgoing calls to the home phone. On the floor and the desk were strewn around 40 empty mini cassette holders. This gave me an idea how long this had been going on.

On his other desk was another tape recorder with headphones. This showed me what he had been doing: taking out a tape, replacing it with another, and then listening to my daily calls on the phone. I felt my mind had been raped.

Andrew Osidacz was let out on bail the very next morning. I had told victims' services about the gun he owned before we moved in together. Later the next day, I saw victims' services at the Brantford police station and told them my story. I was consoled, given some Kleenex and then given a special 911 cellphone and given names of legal aid lawyers. Andrew was not allowed within 50 metres of me or my birth family or my son. I visited the urgent care clinic and reported I was assaulted by my husband. I was examined and given Apo-Naproxen, as I couldn't move my neck and was in terrible pain.

On about the third day from the assault, I went to get police photographs of my injuries at the station. As I was led into a very large, open room with open windows without any coverings, and the police photographers were one female and one male, I wore a lab coat and only let them take pictures of my face, arms and legs. I was too humiliated and upset to disrobe. I quickly found a legal aid lawyer, which would cost me \$5,000. My father paid this in two instalments, as I had less than \$400 to my name.

That week, a children's aid caseworker visited the home. I explained the situation and the ongoing abuse; also the no-contact order and his charge of assault. She met my son and was satisfied I was a good and caring mother. Before she left, I asked her what I should tell my son, as he was only five years old and all he knows is that Daddy is away working and will be away for a while. She looked me straight in the eye and said, "Tell him the truth." Well, all I ever did tell him was that daddy had hurt mommy and had some problems and would be living away from us.

My lawyer delayed sending out my affidavit describing the abuse and the instability of that man and my concerns of Andrew having any unsupervised access with Jared. On the following Monday, I was handed an affidavit at my door, by a clerk, from Andrew Osidacz. He was suddenly the plaintiff and I was the defendant in the court motion to Superior Court on Wellington Street in Brantford.

1130

On May 21, less than a month after the vicious attack on me, I sat, dumbfounded, as my character was destroyed by his lawyer in court. She kept referring to me as the 40-year-old defendant with a screwdriver, who had

her client falsely arrested, that he was the primary caregiver since birth, and I had no input into the raising of my son, as he worked from home and had also cared for Jared at the same time. "How," I thought, "could someone legally make up so many blatant lies?" My lawyer mentioned the assault without much emotion in his voice. Nobody from victims' services, children's aid or the police, who all had knowledge of this assault and the wire tapping, was in this court to support me that day.

I was given interim custody of Jared and interim custody of the house, plus \$500 in child support and another \$670 in spousal support. Then the judge ordered that I was to hand over my son the next weekend, as he granted Mr. Osidacz every weekend, unsupervised, from Thursday to Sunday, alternating from Saturday morning to Sunday night on the other weekends.

I pleaded to my lawyer in the hall, at the break, that I could not hand over my son to that man as he had never looked after Jared alone and he was violent, a control freak, and his family was like a cult and would emotionally abuse my son. He told me not to worry, that we could appeal it soon. If I didn't hand over my son to the Dalhousie access centre, for his father to pick him up, the police would intervene and force the order.

The last thing I was concerned about was the spousal support that my lawyer proudly told me he had gotten for me. The only thing I could say about the generous support that I had received, but which took until that September for me to receive, was that during the four years with my child, it gave me an opportunity to work part-time, not full-time, at the retirement home and that I could take the time to take an educational assistant program at Mohawk, and also, more importantly, spend precious time with my son, as for two years I was denied any weekends with my child.

The first weekend Mr. Osidacz had with my son, on May 25, 2002, he showed Jared the edited video tape he took the night of the assault. My son was five. Then he told my son that mommy had daddy put in jail because I lied and I was a scammer. He said that mommy would be going to jail. He was shown a puppet show by Julie Powell, his brother's girlfriend, about a little boy whose mother dies. The only person who would discuss the actual assault or his jail time was Andrew Osidacz himself, and Jared's granddad was very upset as my son had been told that granddad had hurt daddy.

During Jared's weekends with his father, he would be told that mommy is stealing the house, and to tell the ladies at the Dalhousie centre that I pushed or hit him. I had never, ever laid a hand on my son and didn't believe in spanking. My son would look at me and say, "Mommy, daddy says that if what you told the police was true, you'd still be in the hospital." What could I say? "Mommy, why wouldn't you let daddy in your bed?" His paternal grandmother, Elizabeth Osidacz, would put a teddy bear on her lap and say that this was Jared. Then she would look at him and ask the bear, "Do you love your mommy?" "No." "Do you love your nanny and granddad?" "No." "Do you love your daddy?" "Yes."

Throughout the two years that he had unsupervised weekends with Jared, I contacted Nova Vita, a women's shelter, for counselling, telling them what was going on. They would listen, I would cry, and then nothing would be done. In about September 2003, I found hundreds upon hundreds of 0.22 calibre bullets hidden behind a shelf in the laundry room, along with an illegal gun clip about five feet from the furnace. I called his probation officer and he told me to get them to the police station immediately. I did. They were quite impressed with the ammunition and typed in the computer the contents. Again there was no follow-up. Also in 2003, I was told by Nova Vita that Andrew Osidacz was kicked out of the court-ordered anger management program because he refused to give out the address of his live-in girlfriend, who had a five-year-old daughter. I gave them her number and address, but they said that didn't count because they had to get it from Andrew himself. Both of these events were breaches of his probation, but there was no follow-up.

In January 2003, Andrew pleaded guilty to the assault. He had also been charged with interception of private communication, which is quite a serious charge—more so than the beating he had given me. The crown attorney kept telling me that if I insisted it go to trial, it could take another year, and besides, "You married him," and I would have to work things out with this man as we shared a son together.

They let him make a deal: If they dropped the charges of the wiretapping, he would plead guilty to the assault. He was given two years' probation, had to pay \$300 to a women's shelter, had two years to do 75 hours of volunteer work and had to attend a court-ordered anger management program. This was all he got for his crimes.

After his conviction, he still had every weekend with Jared. After repeated cancelled court motions from my and Mr. Osidacz's lawyer, I was at my wits' end. After one and a half years of no weekends with my son and Mr. Osidacz's unsupervised access, I called up my lawyer's secretary and begged her, when was I going to get an appointment with the Office of the Children's Lawyer? She told me they had never sent out this request. I stormed into his office and demanded why he had not acted on this. He told me that as I had interim custody of Jared and generous support, why rock the boat?

In September 2003, Andrew Osidacz approached me with his mother in a parking lot while I was with my ill son. He tried to get Jared to come with him. I was terrified he would force Jared out of the car, and words were exchanged, like, "You're breaching your probation, Andrew. You're breaching your probation," several times. He and his mother finally left in separate cars, and when we got home I immediately called the police. A female officer arrived while my mother attended to my ill son in the living room. I went over the previous assault of 2002 and showed her his conviction sheet and the no-contact order. I was very shaken up. He was then arrested from 4 Courtland Drive, the home of his live-in girlfriend, Paula Ferrell. He spent the weekend in jail, as this was on a Friday, but I never told my son of his arrest.

Children's aid contacted me after the police officer told them of his breach of probation. Finally, I thought I was going to get some help for Jared about his unsupervised visits with his father. I went for an interview with children's aid and they took notes of the abusive history in the marriage, my belief that Andrew Osidacz was a sociopath, his cultish family and the emotional abuse he was putting my son through. I told them that as far as I knew, his father had never physically abused Jared. They asked if they could see Jared at his school in the library, without my attending. I agreed. I told my son that somebody would be talking to him that day, and every child gets a turn, and today was his turn to speak about school, his life at home and with his daddy.

After the interview with my son, I went to see them again, and to my utter horror two caseworkers, one about the age of 21, accused me of emotionally abusing my child. They said that Jared said that daddy beat mommy up and he had no business knowing about this. I told them that the only one who talked about the assault was Andrew himself, and that I had never told my son about his father's arrests. I told them, crying uncontrollably, that I have no social life besides my son, and they said this was unhealthy. Beside me was a briefcase with his conviction sheet and the violent pornography and bestiality and homemade tapes of Andrew filming himself, masturbating until he ejaculated, that I had found on the remaining computer when I had found out the password a year after he was arrested. They would not look at any of these. I was told that a man is allowed to have his pornography. What did I think they were here for: to help me with my weekends?

I and my parents went through three weeks of hell. I thought I was going to have a stroke. When I started to fight back, they closed the case, but they never checked into the home life of Andrew Osidacz, who lived with a woman and her five-year-old daughter and my son on weekends. Never again could I seek out help from this agency, and I would never, ever let anyone interview my son without my attendance again.

Back in 2003, if this agency had thoroughly checked into Andrew's mental stability and abuse instead of zoning in on me, the victim, I know my son would be alive today. I have seen most of the files recently, and this agency had all the information that should have set off alarm bells. Nothing changed in my son's access with his father.

I then changed lawyers and went privately, realizing there was no difference in the costs from legal aid.

1140

Shortly after, a social worker from the Office of the Children's Lawyer became involved and interviewed me and then Jared and Andrew Osidacz. I think she understood what I was concerned about, but as a social worker, and after two years with unsupervised access, it was practically written in stone, and she didn't have the power to have it changed to supervised. She made recommendations that I have sole custody and every other weekend with my Jared and that his father have the

alternate weekends with one day in the week for a couple of hours after school. Suddenly, despite my fears for Jared, I was over the moon. After two years with no weekends with my son, I was now going to have him every other weekend. I made sure I didn't work on these weekends and always made plans for outings and trips, especially in the summer.

In December 2004, Andrew appeared in criminal court over the breach of probation in the previous year. The charges were dropped and, only because I insisted, they added a one-year peace bond to his two-year probation, which was nearly up anyway.

The last time I saw Andrew Osidacz in person was in October 2005 at a court motion, where he still had no papers or documents ready. Nothing was accomplished, even though I had to pay \$600 for this motion. I remember the judge wondering why we still needed the access centre for drop-offs and pickups with Jared, so I realized that his abusive past would never be taken seriously—only by me.

The last time I saw my beloved Jared alive was on March 16 at 1:08 in the afternoon at the Dalhousie access centre, where I dropped him off to be picked up by his father.

We'd had a wonderful March break together. We went to the Ontario Science Centre, saw the Shaggy Dog movie, walked the trails twice and visited the Ruckers arcade centre with his best friend. He went to his final bowling league game on Tuesday night and his final practice at the St. Johns Drum and Bugle Corps on Wednesday night. We were both so excited about the upcoming parades that summer that he would be marching in; him in his burgundy uniform and cap, playing the xylophone and cymbals, while I would be proudly taking pictures of him. But Jared only got to wear his burgundy uniform for the first and only time in his coffin at his funeral. He never got to experience the joy of marching in a parade.

I remember we went downtown an hour early that Thursday so we could spend some time together before I dropped him off at 1 p.m., the scheduled time. I remember him wanting to go down the walkway to the elevators to the underground parking lot so he could sing at the top of his lungs, just like Geddy Lee from Rush, his favourite band. We visited the farmer's market, where he charmed all the adults, and then we went to a café called Cut the Cheese. He had his final chocolate walnut brownie, his favourite, and his usual milk. He even let me have a bit of it. Looking at the time, I realized we had to rush to the car down the street. As we were running together, I ruffled his beautiful, silky black hair, marvelling at how handsome he was and picturing him as a teenager. I signed him in at the centre. Jared was excited about the surprise daddy had for him—a trip or a music download. Because we were late, I hugged him from behind as he was playing with some Legos and kissed the top of his head. "Bye, sweetie. Have a good weekend. I love you. Mommy will pick you up on Sunday at 6:15, okay?" "Bye, Mommy. I love you too." I left and went to work that night at 4 o'clock.

On Saturday the 18th, when I returned home from work at about 3 p.m., I saw his father's blue Jeep in his mother's driveway, three doors down, but I did not see Jared. I cleaned the house, and as I had been up since 5 a.m. to go to work at 6 in the morning, I decided to take a nap. This was about 6 p.m. I saw the Jeep at this time before I went to take my nap. I fell asleep at about 7 p.m., after reading a book. Suddenly, I was awakened by an unholy banging in my house. I felt like the walls were shaking. I got up and looked at my clock, which said about 7:23. I always set my clock five to eight minutes ahead, so the time was approximately 7:15 p.m. Without turning on any lights, I checked out the kitchen window and saw nothing. I then turned on the kitchen light and proceeded into the dark living room. I was disoriented from my short sleep and even imagined an animal like a deer banging on the walls or doors. This time, the sound came from the front of the house. I looked out the living room window and saw nothing or no one. Then, thinking it might be my family in an emergency, I decided to open the front door. I barely touched the old-fashioned bolt on the door when it suddenly burst open and, in the dark, this huge figure appeared and attacked me. I immediately screamed, thinking it was a rapist or intruder. This huge man grabbed me and, holding his hand over my mouth and grunting, then said, "Jared's dead. Jared's dead." Pulling my face away from his hand, I recognized Andrew Osidacz, but my fear changed into concern for my son. "What do you mean? Where is he—on the road? Your mother's?" All I could comprehend was that my son must have been in an accident and was hurt. Then he grunted, "I've killed Jared. I've killed Jared."

I started screaming at the top of my lungs in sheer shock and grief. He let go of me for a second to get the door closed, and I immediately started running through the kitchen to escape from the side door. I knew I must get to my son. I pictured him lying in the driveway or road, bleeding. Just as I got my hands on the doorknob, this man overpowered me and we went tumbling down the basement stairs. We landed at the bottom in a semi-sitting position with him with a firm grip around me. From the light of the kitchen coming down, I saw for the first time his sweatshirt, deep, deep red—drenched in my son's blood. Then I saw the 12-inch carving knife in his hand, covered in blood.

I started sobbing, "I don't believe you. Where is Jared?" He repeated that he'd killed him and, "Jared's dead." In shock, not being able to process this information, I asked him where Paula, his girlfriend, and Sarah, her daughter, were. He said that he stabbed them but they had escaped.

Suddenly, I had hope that my son would be getting help. Then he moaned out that he loved me and that he'd always loved me and that Paula knew it. Today, his words fill me with such disgust and revulsion. I noticed he had several neck wounds, and he started to pierce his neck with the tip of his knife. He also stabbed himself in the thigh. He was wearing camouflage pants.

As I was sobbing uncontrollably, he told me that this is what I had always wanted, and now everything would

be mine: his house and all his money. I couldn't believe what I was hearing.

He dragged me up the basement stairs and then to the living room window, as if checking for police. Every time I made a move, he would scream, "What are you doing?" Then he would almost gently pat my wrist with the knife and say, "Don't worry. I'm not going to hurt you." He kept going into the bathroom, turning on the light. With a firm grip on my arm with one hand, he would pierce his neck again while we stood in front of the mirror. I noticed that my face was covered in blood, and also my hands. I still could not believe that Jared could be dead, and I sobbed again, "Why? Why?" "Oh, Paula dared me. She dared me," he said.

Then he said that Jared was so unhappy, and I screamed out that Jared was the happiest boy in the world. He told me that Jared had said, "Mommy said that her and daddy would never get back together." "But Andy," I screamed, "you knew we were getting a divorce. We've had no contact for four years, and you had a new life with Paula." He said that he had been feeling like this for a long time.

I yelled out why he didn't get help for his depression. He would say, "Oh, my beautiful son. He saw what daddy had done," and he was never going back to jail. I tried to convince him that maybe Jared is okay, and if we called 911, he wouldn't have to go to jail; he could get help. He said, "Oh, Jared's dead. I saw him."

I sobbed and asked him if Jared had called out for mommy. He looked at me and said, "No. Jared said, 'Please don't kill me, Daddy.'" The horror of my son's final moments filled my brain, and I started screaming hysterically.

He asked for some pills to help him die quicker, and I told him there were some pills in the linen closet across from the bathroom. Through all this, he never once let go of my arm or wrist.

When he saw the sleeping pills and the Apo-Naproxen, he just threw them on the floor. I told him there were pills in the kitchen cupboard and showed him the Tylenol and ibuprofen. He downed them like candy and then got a glass and filled it with water. After he drank from this glass, to my utter shame, in shock, I actually took a sip from this blood-covered glass, I was so thirsty.

Then he asked me for a sharper knife. I pointed to the cutlery drawer and he took out a steak knife. He dragged me back to the bathroom and put down the carving knife on the counter and started cutting his neck with the steak knife. I remember staring at the huge knife and wondering if I should try to grab it, but I realized that as soon as I did this, he would overpower me and kill me instantly. If I knew for sure that my son was dead, I would have tried, but I wanted to see my son again.

Then he asked me for the phone and dragged me to the dining room to get it and returned to the bathroom. He sat on the floor trying to drag me down with him, but I knew if I did this, he would kill me. I convinced him to let me sit on the top of the toilet seat as he still kept hold of my

wrist. He had switched knives again and was holding the 12-inch carving knife now. He dialed the phone and said, "Is Mother there? Jared's dad. I've stabbed Paula and stuck Sarah, and I'm over at Julie's." Then he dropped the phone in his lap, saying, "I guess she's not coming over. She hung up on me." During this phone call, I was calling out for someone to "Call 911: 4 Courtland Drive. Help Jared," but I don't know if I was heard.

About 15 minutes after he had called, which must have been about 7:55, he heard a sound at the side door and dragged me to it. Holding his hand over mine, he opened the door and there was his mother and her two grandchildren, Lisa Chmura, 20, and Alex Chmura, 14, who just hours before had been playing video games with their cousin, my son Jared. The walk to my house would have taken only 30 seconds, as his mother lived only three doors down. What was she doing in these 15 minutes? She never called the police or an ambulance.

She calmly walked in as Andy backed us up into the kitchen, and walked up the four steps and stood in front of us about a foot and a half away. Here was her son completely soaked in blood—my son's blood—with neck gashes, and me with my face covered in blood, along with my hands, while he had a firm grip on my arm and held the knife up in the air. She showed no emotion, asked no questions like, "Where's Jared? What have you done?" No. As I begged and pleaded for her to call 911—"He says he's killed Jared. Please. He's at 4 Courtland"—and with her two grandchildren standing on the landing, she looked at her son calmly, with her hands in her coat pockets, and said, "Are you all right, son?" I looked at her incredulously and yelled, "What about Jared? Aren't you going to get him help?" She coldly stared at me and said, "You pushed him too far and Paula pushed him too far." Andy said something like, "She doesn't believe me."

At this time, her 14-year-old grandson, who I used to babysit, was holding the screen door partly open with his hand and foot. Suddenly, the outside seemed to light up. The police must have arrived. Andy grabbed me in front of him like a shield and, holding the carving knife at my throat while I instinctively protected my neck with my arm like this, started dragging me towards the hallway, towards the bathroom. Knowing now that my death was imminent and desperate about my son's life, I looked at Lisa and pleaded, "Tell them, Lisa: 4 Courtland Drive. Get Jared." Lisa looked right through me, and with tears in her eyes cried out, "I love you, Uncle Andy. I love you."

I was dragged backwards into the bathroom doorway with the knife at my throat, my arm still protecting it, when I suddenly heard what sounded like storm troopers coming in the house. I started yelling out, "Help, help!" Two officers appeared in the bathroom doorway with their guns drawn and both wearing silver vests. Andy made a lunge at one of them with the knife, grunting, and they stepped back. They told him to drop the knife about two times. Andy backed us up on to the edge of the bathtub and we were sitting together like one person, he holding me to him like a shield. He was trying desper-

ately to get my arm away from my neck. I saw the officers with their guns drawn and yelled out, "Don't kill me!" because I thought there was no way they could shoot without killing me too. They told him to drop the knife again. Suddenly, Andy got my arm away and in one swoop, in an arc, I saw the carving knife coming towards my neck. Just as it came within less than an inch of my throat, there were sudden gunshots. The force of the shots threw Andy, and me with him, into the tub. I will never forget the smell of the cordite or the sound of the shots, as they sound different from in the movies. They sound exactly like firecrackers going off. I have had terrible flashbacks and screaming on Victoria Day this year and on Canada Day when neighbours were lighting firecrackers.

Without looking at Andy, I immediately held out my arms to the officers and said, "Where is my son? He says he's killed my son." An officer grabbed me out of the tub and I immediately went running into the kitchen and grabbed another officer, demanding where my son was. "Take me to my son." No one could answer me about Jared.

I learned later that when the two police officers who saved my life that night arrived at 18 Cecil at 8:06 p.m., they banged on the front door and saw movement in the house. No answer. They then went to the previously open side door that was now locked and had to keep banging on this door and shouting, "Open up! Police." One officer saw a youth look sideways towards the kitchen through the door window and say, as if asking for permission, "It's the police. Should I open the door?" When the first officer got in, he asked if there was a man in the house, as he noticed the blood-covered walls. Andrew's mother, standing in the kitchen beside her granddaughter, was uncooperative and unemotional. The police were trying to get me out of the house and grabbed me a coat and purse, and I saw Andrew's mother calmly walk down the hall, asking to see her son. I was demanding to be taken to my son.

I was put in a police car in front of my house. In shock, I called my sister with my cellphone while I sat alone in the cruiser, and told her what had happened. She immediately drove over. She came running up to me in the cruiser and yelled out, "Where's Jared?" I said, "No one will tell me, and I think Andy's dead." I noticed an ambulance in my driveway. My sister ran up the street where Andy's brother and Julie Powell, his girlfriend, were with other officers, and she noticed that they were both wearing black track suits. Michael Osidacz was screaming out that he was going to sue the cops because they had shot his brother. "You know how these bitches drive men crazy." My sister screamed out, "Where's Jared?" He called her the c-word and a bitch and was about to strike her. The police led my sister back, and just before she came running back to me in the cruiser, an officer came up and told me, "We've just got word, ma'am. They're working on your son and taking him to the Hamilton General."

I was suddenly so happy and elated and started rocking back and forth, back and forth, saying, "I'm coming,

sweetheart. Everything's going to be okay, honeybun. I'm going to see you soon. I'm going to see you."

I'm going to stop here and just tell you that I was taken to the station that night and informed that my son had died. I wasn't allowed to go to the hospital to see him, and they wanted me to wait to make a statement to the SIU, which I did.

I next saw my son the next morning at the morgue behind a glass window. They were going to perform his autopsy before I arrived, until I begged the police to intervene and delay the autopsy. I held my breath as the curtains opened, and there was my beloved Jared on a gurney with a white sheet up to his neck. His forehead was covered in bruises and his beautiful, beautiful brown eyes were open, with the light gleaming on them. I just kept screaming, "I love you. I love you. Mommy loves you. Oh, my boy, I love you. I love you," about a hundred times. I never got to touch my son, and fell into a heap on the floor. My father had accompanied me and was crying out, "No. Not our beloved Jared, our lovely Jared."

1200

You know, Jared looked beautiful at his funeral, but this was just a representation of him, and the real Jared I saw, my lovely son, dead. I will never forget. Every day I relive this scene, remembering that his beautiful mouth was open in a scream, showing his teeth. The horror of that night was written all over his face. After the funeral, when I had requested my son's medical records, I was shocked to learn that my son was left for at least an hour after his attack before he received any medical attention.

No. Despite the press releases, the police were not called to 4 Courtland Drive, where they found three stab victims, one deceased, but to another address where Paula Ferrell, after witnessing my son being stabbed, after him saving her life and her daughter's, escaped to a parking lot and waited out some time in hiding, possibly until she saw Andy escape in the blue Jeep. She then, about 7:10 p.m., ran to another address for assistance. She never told the police about my son. Why? Two ambulances were called for these two victims, both with non-life-threatening injuries, at 7:13, and they arrived at 7:18 p.m.

The first the police heard of my son, Jared, was when Sarah, the little girl, said, "I hope my brother, Jared, is okay. His daddy was stabbing him." On my son's medical records it states that he was discovered at 7:50, then worked on at 7:51 and taken to the front lawn, where it was near freezing that night. His clothes were removed, except for his underwear, and two paramedics and a firefighter fought desperately to save him without an ambulance. Why would the police not clear the scene while they walked past and over my son to find the assailant, who was already at my house, holding me hostage? An eight-year-old boy bleeding in a house—bleeding—and the police would not clear the area for the paramedics. Police with guns would not clear an area because they were looking for the man who was already at my house.

The two ambulances—this is just behind 4 Courtland Drive—refused to come around the corner and pick him up. Why? My son then had to wait a further 11 minutes for an ambulance to arrive and he was transported at 8:01 p.m. and arrived at McMaster hospital at 8:25. The surgeons worked frantically on him and even performed a thoracotomy on him. His temperature, an hour after his attack, was 37.4. Does this sound like a deceased child? But it was too late. He was pronounced dead at 8:33 p.m., “with no family attending,” the report said.

The monster that murdered my beloved Jared, his own son, waited exactly six minutes for an ambulance to arrive after he was shot and received immediate medical attention. He was sent to the Brantford General and pronounced dead at 8:46 p.m. There was a witness who saw Andy’s Jeep in his mother’s driveway that night at 7 p.m. He attacked me about 7:15 p.m. Who did he see in these 15 minutes, and why has his cellphone never been recovered? Who has it?

Paula Ferrell, who was in my son’s life for three and a half years, has never contacted me—not a card or a note. I received my son’s belongings from 4 Courtland Drive in garbage bags where they dumped at victims’ services. Not a note or letter was with these bags.

Why has no one besides myself been called in for questioning? I deserve, as Jared’s mother, the boy who stepped in to save two lives, one of them a 36-year-old woman, the other her eight-year-old daughter, answers to what happened that night. My son deserves respect as a hero even though at only eight years old he should never have been the hero.

Now I want all of you to put yourselves in my son’s eight-year-old body, like I do every day, and picture the horror as the man you love, your own father, holds you down and as you plead, “Please don’t kill me, Daddy,” this man stabs you in the throat beside the left carotid artery and in the chest, close to the heart. My son had deep lacerations in the palms of his hands as he fought desperately for his life. You just picture that: my little eight-year-old boy. This man was 5 feet 11 inches and weighed 220 pounds. In one hand was found a black hair. Was it his father’s?

My son and Paula Ferrell and her daughter were attacked with steak knives. Where did the 12-inch carving knife come from that I was attacked with? Paula has never identified this knife. Please, I am not looking for blame but only answers, as my beloved son will never, ever be coming back. My son deserves a voice in death that he was denied in life, and as his father, his murderer, will be getting a coroner’s inquest, doesn’t Jared, my little hero, at least deserve one too?

This Bill 89, Cam Jackson’s bill, Kevin and Jared’s Law—and Mr. Jackson is passionate about victims’ rights and the lives of children—must pass. We cannot afford to see another child suffer like my son did.

Now I will play Jared’s song so you can hear his beautiful voice and talent. Thank you.

The Vice-Chair: Thank you, Ms. Craven.

1210

Ms. Craven: I’m just going to play my song in a few minutes. There’s only one song on it.

If anybody wants to see, you can pass them around. I don’t know if you’d like to bother. These are pictures of my injuries that were taken by the police, so all the evidence the children’s aid and all the other agencies had of my injuries that night. Of course, I didn’t disrobe. Now I wish I had. I also have evidence that the police had of all the tapes, the wiretapping, the devices. They all had the evidence.

Audio presentation.

The Vice-Chair: Mr. Jackson?

Mr. Jackson: Mr. Chair, might I suggest that after that powerful presentation we give Julie a moment to compose herself and ask her father to come to the table and perhaps give him an opportunity to say a few words. Maybe then the committee would be able to ask a couple of questions. Would that be all right?

The Vice-Chair: Sure. Mr. Levac?

Mr. Levac: I agree with Mr. Jackson. I believe our recess is built in that we could push back time to accommodate the timing so that all of the other deputants would have their fair amount of time. I fully agree with that opportunity so that Julie could receive questions. It’s a good idea.

The Vice-Chair: Thank you.

Ms. Craven, we want to thank you for sharing with us the photographs, which have been circulated among all committee members, and the recording.

At this time I would like to call Mr. John Craven to come forward.

Mr. Craven, you will have up to 20 minutes.

Mr. John Craven: Hello. I’d just like to say a few words about Jared. My wife and I were in our late 50s when Jared was born. He was the most beautiful baby I’d ever seen in my life. He had a lovely big mop of black thick hair that I’d never seen before on a child. After a few months, he never lost the hair like most babies do. It just got thicker and longer and you couldn’t tell whether it was a boy or a girl. He was so beautiful.

As he got older and when he started to walk, I noticed that Jared always—I think it was his right foot that he would bang down. He’d walk through the living room or the kitchen and be banging that foot. I knew there was something special about Jared. As he got a little older, I realized what the banging was: It was a beat. Jared had a wonderful gift for music, and this tapping of his foot as he walked was the beat to the music that he could hear in his head. Although he was just humming, it was like an orchestra in Jared’s head. It was a full band.

Then when he got to about three and four years of age, he used to sing on the telephone to my home to his nana. He’d sing Unforgettable, that beautiful song. Also he would sing You Are My Sunshine to his nana, whom he loved.

As Jared got older, we realized that he had a photographic memory. He began to write songs and compose music. He could just about play any musical instrument that he put his hand to. He was a gifted, special child.

I just want to say that particular night when I found out that Jared was no longer with us, that he'd been brutally murdered, when my daughter Louise and my son Sean came knocking on the door round about 9:15 that Saturday night, March 18, I couldn't believe—we were horror-struck. I had to go upstairs—my wife wasn't feeling too good and was in bed—and tell her that Jared was dead. “Oh my God,” she screamed. I don't remember too much about it after that. The next thing we were in a police station with my daughter Julie, Jared's mother. It was a terrible, terrible night.

The point I'm trying to say now is that this should never have happened, because four years earlier this monster had brutally attacked my daughter, almost killed my daughter. He wiretapped the telephones. He was a sociopath, a control freak. The courts knew this. The children's aid knew this. Nova Vita knew it; my daughter told them but they didn't believe her. They believed him—this mad monster.

We have to get Bill 89 passed. It must pass. We have to have supervised access when anybody has a violent tendency towards their spouse or whoever, because if the spouse is not there, they'll lash out at whoever is there, and the next person, most of the time, is the children. So we have to get Bill 89 passed.

After the funeral we started to take petitions for Jared's Law. We've accumulated close to 55,000 petitions. These are them here. And they just did not arrive on the doorstep; we've gone out tirelessly, my family. The first 10 days we managed to get almost 30,000, in 10 days in Brantford, and that was with the help of friends and family. Since then, my family—my wife, my two daughters and my son—have worked tirelessly. We've been going to Port Dover. We've been to Burlington. We've been to Hamilton. We'll go all over.

If this bill does not get passed, I will be going into the Toronto area, I will be going to Mississauga, Etobicoke; you name it, I will be going. I will never stop till my dying day, till this bill—it's got to pass, the reason being that no family should go through what we've gone through. If this can save another life, thank God.

I just want to say now that I'd like to play this song that I wrote and recorded, and I would like you to listen to it, please. Thank you.

1220

The Vice-Chair: Thank you. Please proceed to play the song.

Audio presentation.

The Vice-Chair: Mr. Craven, thank you for sharing this with us. Members of committee, although we've used up the time allocated for these two deputants, with your permission I would like to give each party five minutes for comments or questions. Please stay, Mr. Craven.

Ms. Craven: Will you want us to stay to answer questions?

The Vice-Chair: Yes. By rotation, we'll start with Ms. Horwath.

Ms. Horwath: Thank you, Mr. Chair. I don't have a lot of questions, because I just—

The Vice-Chair: I will turn to the members from government now.

Mr. Levac: We'll come back.

In our very first meeting, in explanation, it was evident to me, as I told Jenny, that absolutely no one knows the pain. You've done a very brave and obviously sorrowful job of letting us know—

Ms. Craven: I've kept this in for a very long time, and finally it's come out what happened that night.

Mr. Levac: By providing us with that picture, you give us the opportunity to make sure that—as I've spoken to you before, and your father—hope of all hopes, it doesn't happen again to someone else. The bravery that you've stepped forward to ask us to commit to doing 89 is laudable, and I appreciate it.

You had mentioned something: that in your deputation people didn't show up. Has anyone ever explained to you why those holes that existed did not get filled by the deputations—you mentioned that the CAS didn't come forward; the police. Did anyone ever tell you?

Ms. Craven: Back in 2002 I was in the complete dark. I've seen the children's aid to look at my files, I've seen Nova Vita to look at my files, and all of a sudden I've been told that, “Oh, we do things differently now.” I don't know if that's the truth, but actually, at the time, children's aid, as long as the child does not witness the assault—it's only spousal violence. I mean, if a man walked across the road and beat up another man like he had beaten me up, he would be imprisoned. But when it's spousal violence, it is not taken seriously. It has nothing to do with child abuse. That seems to be the children's aid point of view.

Other districts might be different. All I can tell you is of my experiences with children's aid in Brantford. I only saw a children's aid worker the same week I was assaulted. She was there for maybe an hour. I told her of the abuse and the no-contact order. She must have realized it would be going to Family Court, because what happens today in Family Court or Superior Court, whichever one, it just happens like that, okay? It's “he said, she said” and it's one lawyer and another lawyer, and you never get to testify on your behalf. But criminal court—that comes nine months to a year later. By that time, the perpetrator, the spousal abuser, has already had your child unsupervised for nine months to a year. Then he gets convicted. Nothing seems to change.

I am so tired of hearing “domestic violence, domestic violence.” It is family violence, family violence. When someone is violent to someone in their family, when are the agencies going to wake up and say, “You know what? This person does not have a right to see their child.” If they can be viciously violent to someone else—how could it make sense? I was a client of victims' services, a special 911 phone, given all this information about how to protect myself and my son, right? But every weekend, the judge in Superior Court had granted that I drop my child off at the access centre and 15 minutes later his father would pick him up and have him for the entire weekend unsupervised. It doesn't make any sense at all.

Through the years, when I would talk about his sociopathic tendencies—okay, I'm no university graduate, so of course they're not going to believe me. But when I tell them about the actions of what happened in the family, the marriage, his crazy family, the absolute control, that he looked at his son as a trophy and property, and me as property—in four years, I remained celibate; I had no relationships. Do you know why? Because that man was a control freak and I knew that if I ever entered into a relationship—even though he was in a relationship himself, I knew that to keep myself and my son safe, I must remain on my own, and that's fine, because today I thank God that I never had a man in my life in those four years, because it just gave me more time with my son's short life.

Mr. Levac: Thank you. Mr. Chairman, I know that Mr. Craven brought the petitions. The procedure would be to submit them to this committee, but make sure that it transfers to evidence?

Mr. Jackson: We're just bringing them forward to demonstrate to the committee the commitment this family has made to the petition process.

Mr. Levac: They'll be posted in the House?

Mr. Jackson: He has 55,000. We'll be tabling them in the House as part of the process that we as a committee are going through.

Mr. Levac: Thank you very much. I appreciate that.

Thank you, Mr. Chairman.

The Vice-Chair: Ms. Horwath, are you ready now?
1230

Ms. Horwath: Sure. Sorry for that. You talk about Nova Vita. That's the name of the CAS?

Ms. Craven: No. Nova Vita is the women's shelter. That's where he did his court-ordered anger management program that he was kicked out of because he refused to give out his girlfriend's address and phone number. They sent me a letter and said that he had been kicked out. I asked them why, they gave me the reason and I said, "Oh, well, I have her phone number," because I knew this woman; I'd known her for years. I said, "I know the number and the address," and I was told, "Oh, no, no. We have to get it from him."

I go for counselling, tell them my story, same thing: Grab the Kleenex, I'm crying, I'm crying, I'm crying, I'm crying, telling them what my son is being told every weekend, and, "I have no weekends with my child; he's emotionally abusing my child." It goes on and on and on. "The man is a control freak, a sociopath," and so on, and they write it all down. What happens with this information? I don't think anything happens. They just write it down and stick it in a drawer.

It's the same with children's aid, but then children's aid, back in 2003, because of a criminal breach of probation by his father, suddenly turned on me and told me that I was emotionally abusing my child because he knew daddy beat mommy up. Have you ever heard anything so ridiculous in your life? They never checked into his home life. They closed the case after I started fighting back; they closed the case. But meanwhile, this

gave me—I had lost the opportunity to ever go to this agency ever again, because who polices children's aid? There are 20-year-olds, 21-year-olds. How can someone of that age, with no life experience, come in and understand? This woman told my sister, when she was interviewing my sister, "Oh, that Andy. He drives a really nice-looking car." These are the kind of people who are working in the children's aid and how they treat you. This is how much experience they have in life.

Ms. Horwath: I'm glad you raised that, because that's something that's been of concern to me, that the proper systems don't exist for independent oversight of children's aid societies. Notwithstanding that I'm sure there are some children's aid societies which do really good work, there are real problems within those systems that will never be addressed from an internal process, which is what the government's currently—

Ms. Craven: I was asked, why don't I move? I live three doors down from the mother. "Why don't you move?" Well, excuse me: The mortgage was \$540. I have a house. So I should move to a low-rental area and pay \$800 a month while my child is living in a nice area? "Why don't you move?" They put the onus on the victim; they always put the onus on the victim.

Ms. Horwath: It seems like after decades of talk about family violence, we don't seem to be getting very far.

Ms. Craven: And the ironic thing is that in 2002 and 2003, when they got involved with the breach of probation, I was told, "Well, your son never witnessed the abuse back in 2002." But if he had come down that night when he was five years old, like he did in 2006 to save his father's girlfriend's life and her daughter's, at five years old, we all know now what would have happened to him. Thank God he never witnessed the assault and he remained asleep that night.

The Vice-Chair: Thank you. Mr. Jackson.

Mr. Jackson: Julie, John, in my 22 years here, this has probably been one of the most powerful presentations that we've had before a committee. However, I am saddened to say it's not unique and it has happened far too frequently.

In the midst of your courage and the strength that your family's had to pull together in these difficult times, you've been asked to navigate through our justice system. This has been very, very difficult for you. I know that we have spent countless hours together in your home and on the phone, in letters and e-mails and so on, but if I were to look at this from the larger perspective, it would appear that our Office for Victims of Crime no longer provides that assistance to help families navigate through the system. I was very disappointed when I sat down with you and spent the time listening to what happened with victims' services and, I'm saddened to say, the conduct of the police in this instance. The women's shelter, the crown attorney, all the way down the line you've not received any real assistance in terms of how to navigate through this system as the victim. And Jared paid the price for that, given that the system didn't protect him in spite of all of your efforts to protect him.

The committee should know, and it should be on the record of this file for future reference, that with the family's permission I wrote to the regional coroner, David Eden. It was a four-page letter I wrote. I've given a copy of that to each member of the committee. And last month we convened a two-and-a-half-hour meeting with the coroner. So I do want to suggest to the committee that we have not as yet heard from Dr. Eden in terms of whether or not he will be granting a coroner's inquest, separate and distinct from Bill 89.

I have had well over a dozen coroners' inquests that I have participated in and called for during my 22 years at Queen's Park, and I will just say for the record that I will be extremely surprised if this one does not go forward, and as you most eloquently put, Julie, that Andrew, in death, is guaranteed a coroner's inquest here.

Ms. Craven: Mr. Jackson, can I just say one more thing? Back in 2004, when I went to get a police check on myself because I was taking an educational assistant course at Mohawk College, to my shock I found that there was a restraining order of five years placed on me by Family Court. I had no knowledge of this at all—a mutual restraining order. I had to carry this stigma. To this day, the dead man, the man who murdered my child and who is lying in the ground rotting away, rotting in hell, has a restraining order against me that does not expire until next year—a family restraining order that was put on by his lawyer back in 2002, which I had no knowledge of until 2004. That's very ironic: that I had done no violence in my life but there was an actual family restraining order on me.

Mr. Jackson: As you've indicated, Julie, the circumstances of this case are quite extraordinary. He found himself in a courtroom charging you, well in advance of your first opportunity—

Ms. Craven: He became the plaintiff and I was the defendant, three weeks after he had viciously assaulted me.

Mr. Jackson: Just to put this in context, and John and I have discussed this extensively over the phone, this bill isn't going to fix each and every one of those individual problems. This is such a large and complex issue, and later on in the day I'll be reading into the record some statements that were made 20 years ago that forewarned that this was going to happen in our system as it evolved. But in a coroner's inquest, all the truth will come out. Look how powerful today has been just for those of us here. Imagine if the Chair were a doctor who had powers of the Statutory Powers Procedure Act to actually subpoena people and records to present in a group of peers like ourselves to hear first-hand the powerful presentation. Out of that would come positive recommendations for change, not to lay blame. That's the purpose; we're going to hear from the coroner's office later today. But a group of peers, citizens of Ontario, would have an opportunity to listen to this powerful and tragic story and then make recommendations for change.

Ontario has an extraordinarily good record of coroners' inquests—the leading jurisdiction in North

America. Over the course of the last three governments—and that taints us all, or includes us all—we've seen, for budget reasons and other reasons, that we're not doing as many of them, and it's in doing them that we give a voice to the dead so that they can speak from the other side to tell us what should be done differently.

So I, personally and on behalf of the committee, want to thank you for your courage and for being here. You still have so much farther to go. I know that we all are going to try to help you through this and make this a better province and a safer province for our children.

1240

Ms. Craven: Thank you.

Mr. Craven: Mr. Chairman, I'm awful sorry. There were a few points I didn't mean to—would it be okay if I could read it out quickly for you?

Mr. Jackson: John, we can put those on the record if you want to give that to the committee, and we'll circulate that.

Mr. Craven: I just got emotional and I forgot to mention it.

The Vice-Chair: Would you like to read them at this time, Mr. Craven?

Mr. Craven: If it would be possible.

The Vice-Chair: Is this agreeable, members of committee? Thank you.

Mr. Craven: Would that be okay? Thank you. It's just that these are some of the issues that merit close examination.

The first was: Was Osidacz's bizarre controlling behaviour, including that of his family, presented at the original custody hearing, and if not, why not?

Was Osidacz's bizarre controlling behaviour of wire-tapping his wife Julie's calls provided by the police to subsequent child custody consideration agencies, and if not, why not?

Was the full extent of Osidacz's bizarre behaviour, including that of his family, presented at the original custody hearing, and if not, why not?

Why did the court grant unsupervised access despite the outstanding charges of violence against Osidacz?

Was the follow-up with the children's lawyer office sufficient for the circumstances, and why was no further action taken by them?

What steps did children's aid take to examine the circumstances of Osidacz's conduct and his family's during unsupervised access, and were the actions taken appropriate?

What steps did Nova Vita agency take as a result of receiving information from Jared's mother?

What communications existed between the police, children's aid, Nova Vita and the Office of the Children's Lawyer?

Why were the original criminal wiretapping charges withdrawn by the crown?

Why were there no public mischief charges laid against Osidacz for his false allegations?

Were the facts as alleged by the crown at sentencing thorough and complete, and if not, why not?

Is it accurate that Osidacz did not complete required anger management courses in ominous circumstances involving a new domestic relationship?

What action was taken as a result of this breach, and specifically, why was he not charged with the breach of probation?

Why did children's aid not revisit unsupervised access in light of this breach?

What actions were taken by the police probation officer and children's aid as a result of the discovery of ammunition in the fall of 2003?

What communications were made between the police and children's aid as a result of the no-contact breach by Osidacz in September 2003?

Were the actions of children's aid subsequent to this breach appropriate given the ultimate mandate of child protection?

What is the explanation for why children's aid did not seek a variation in supervision in light of Osidacz's behaviour, including two breaches of probation, both of which raised safety concerns?

What was the disposition of the criminal breach charge?

Those are the questions. Thank you very much.

The Vice-Chair: Thank you, Mr. Craven. On behalf of the committee, I want to thank you both for your deputation.

Mr. Craven: One quick thing before I go: The reason why I made the song for Jared was to bring them out—my intent is to make sure that every MPP has one and listens to the song. Hopefully it will trigger enough emotion and concern to get the bill passed. I'm going to present some out right now.

Mr. Levac: Mr. Craven, we do notice that you had a written statement even though you presented earlier. Is there a chance you can leave us with the written statement as well? Thank you very much.

WITNESS X

The Vice-Chair: Ladies and gentlemen, the next deputant is appearing on an anonymous basis. I want to remind members of the press that no photographs should be taken of this deputant.

Welcome. You have up to 20 minutes.

Witness X: Good afternoon. I'm here today because my eight-year-old and I are in a race against time. For the moment we are safe, but our safety on many levels—physical, sexual, mental, emotional and financial—is fragile. Our protection has become my full-time job. It is not the job I would have pictured for myself 10 years ago. It has been a frightening and lonely struggle, experiencing one system failure after another. I'm here because I'm tired and depleted and I share a common thread in these hearings. Most importantly, I believe we are all here today because there is a crisis in the system which desperately needs triage. I'm here to highlight some of my story to further shed light on the sense of urgency this bill requires.

I came across the story of Julie Craven and Jenny Latimer while doing an Internet search this past spring. I immediately made contact with Cam Jackson's office and the Cravens to find out more about Kevin and Jared's bill. A few months later I spoke with Julie. While listening to her very private and horrific story about Jared and the events leading up to his death, her words echoed in my ears as if her voice were my own.

I realized I had no other choice than to be here today in support of Bill 89. I do it for selfish reasons. I want nothing less than safety for my child, for myself. My name and the gender of my child are not important. Just think of me as any one of a number of Julies, Jennys and other responsible parents out there right now who may be dealing with the same issues before the courts.

Our cases are known to many agencies to have common high-risk factors leading to potential lethal outcomes. Our cases are those in which the safety and welfare of our children and their custodial parents are of prime concern.

The details of my case recorded four years ago by the Toronto Police Service took four hours. Add another two and a half years since that interview, and I imagine we would be here for six hours. So in order to keep this brief, I will highlight the key salient points which are similar in most cases of this nature.

I was in a common-law relationship to the equivalent number of years that I am now in a six-year custody/access battle to protect my child. I'm at the median age of women in the province being murdered by their ex-partners. These facts alone may not mean anything to the general public, but statistically the first two put me in a higher-risk category. If I am at risk, it would stand to reason that my child is also at risk, vice versa or both. The disturbing new trend of familicide is on the rise. The ultimate revenge of an abuser is to hurt our children.

I will give you some background. I was born in Toronto. I'm a university-educated, self-employed marketing consultant and the sole provider for my child. I own the house I live in, pay taxes and am the sole caregiver of this child. I have never been in a violent relationship prior to this one with my ex-common-law partner, and I admit to holding stereotypical views at that time as to what that kind of relationship might have looked like. So when I met my ex-partner, I thought he was a charming, soft-spoken, talented and spiritual fellow. I knew nothing of his lurid past and his patterns of abuse in multiple relationships. He had few relatives and fewer friends. No amount of intelligent second-guessing would have prepared me for what was to follow. He was a master of making impressions. However, the paper trail on my case would beg to differ.

I experienced the gamut: mental, emotional, sexual, financial and physical abuse prior to pregnancy, during pregnancy, post-pregnancy and post-separation. Most disturbing, while still living together, my child, who was then a toddler, was a witness and disclosed sexual abuse by him. This was reported to a child protection agency,

which failed to immediately investigate the case and did so only numerous weeks later. I was later informed by the Toronto Police Service that this interview should have taken place within 12 hours. Had I known that, I would have taken the child immediately to the police, where disclosure would have been ascertained. As a result—

Mrs. Sandals: Chair, to make it easier for the witness, could we just have sort of a blanket motion to strike all gender references? Then you can go ahead and talk at will.

1250

The Vice-Chair: Is this agreeable to all members? Okay.

Witness X: As a result, disclosure was not ascertained and the case was subsequently closed, citing, “No protection concerns.” Why? Because I gave them my word that I would keep my child safe and under supervision. At that moment I made a decision that I would stay with my child and stay with him the rest of our lives, until the child was of an age and out of harm’s way, knowing the risk that if I left, he might have access, unsupervised. So I had two choices, between two hells. Shortly thereafter, my ex-partner assaults me again: photographed by the police and referred to victims’ services, but not the hospital. My ex is arrested and removed from the home.

My child continues to see him third-party with friends that I had agreed to to supervise those visits. A few months later I express my concerns to the police regarding harassing calls that I suspect are coming from him. Since I cannot identify the number from which they are coming, they fail to respond. But I know beyond a doubt it is him. Three months later, when I fail to meet his demands for increased access, which already is two nights per week and every weekend, arranged with third parties and an exhausting process to arrange and maintain, he escalates and is caught by the police and arrested for criminal harassment and stalking. He further breaches these orders, pending two trials, and is brought up on additional charges and held without bail, pending conviction. He plea bargains the original assault.

My child and I are removed from the house prior to his arrest and moved to a safe house. Toronto police install a safety monitoring system in our house, one of only 56 units that exist in the GTA. We’re considered high risk. His probation order states that he is not to have any contact with either my child or me, but this leaves a loophole pursuant to a Family Court order. He is mandated to anger management. No victim contact is made by this agency and he slips through those cracks undetected. There’s no corroboration of what’s going on with his program to what’s going on in our lives simultaneously.

Meanwhile, one of the previously neutral third-party supervisors becomes his girlfriend. However, they have actually been seeing each other all along under the guise that she is neutral. She is then caught video-surveilling my child and me and warned by the police to stay away from us.

Under terms of “no contact” and under house arrest, he petitions the court for sole custody, the forced sale of the house and spousal support. He does not pay child support, and what little he has amounts on average to \$40 per month if you were to spread it out over the past five years.

He has found his new tool for harassment: Family Court. In an effort to continue to keep my child and myself safe, and under pressure by the lawyers, I agree to a consent order to use an Ontario ministry-run access centre to facilitate child-parent access pending an assessment. So while I am one tiny step removed from my abuser, my child is not and must see him, sit on his lap and be subjected to his manipulation. I am told by the lawyers that this is the lesser of two evils, given the current condition of the family courts. At least this is somewhat supervised, somewhat controlled, and definitely better than the previous form of third-party supervision by friends, which was fraught with all kinds of problems.

While the agency is affiliated with the supervised access network of access centres across North America, unlike its US counterpart, which has strict protocols, training and best practices for sexual abuse referrals, Ontario is just getting around now to providing such training but has none to date. What choice is there—unsupervised; marginally supervised by caring but inadequately trained volunteers/staff; third-party supervision by his family and friends who see him as the victim; or, worse, the fate that Jenny faces now?

While warnings have been given to my ex for inappropriate behaviours at the visits, he provides in his litigation the glowing access reports, which would paint a different picture of him. Even though there is a disclaimer in the policies of the program that state that these access reports are not indicative predictors for future behaviour outside the visits, abusers and the courts continue to refer to them for validation to expand access. It does not take a rocket scientist to figure out that anyone in a controlled environment such as this will manage their impressions accordingly, and that regardless of what the child may be experiencing, a child requires a neutral advocate with expertise in family abuse and other health and safety issues related to that child to determine what is in their best interests.

Like the common threads of our stories, there are patterns of litigation by our abusers that are predictable. Yet there are no risk assessment tools in the family courts to assess the potential risk and no guidelines for making decisions accordingly. Few are taking the risk seriously.

How is it that someone with a criminal conviction, under a court order for supervision pending an assessment, can walk into a court on an emergency motion and gain holiday access loosely supervised by his family, even though the endorsement for the order agrees that there are findings of violence against the mother? Apparently, the courts would like nothing more than to reunite children and their parents at the important holidays. As one of my transcripts states, “Every child should

have a Christian holiday with their father." This prevailing attitude, one which gives priority to parental rights versus the best interests of the child when the facts are in front of their faces, is further revictimizing children and putting them at enormous risk. This no less than an Enron bankrupting our children's future.

Would anyone on the coroner's committee today believe that the court put this letter aside because it was not filed in the proper form? An accredited crown expert who sits on the coroner's death review committee, who has been tracking my case for four and a half years and who has taken part in similar inquests, wrote, and let me read some of the highlights:

"I am concerned about the high number of risk factors that exist in this case, which include the following....

"—history of domestic violence, including assault during pregnancy;

"—medical treatment for domestic violence-related injuries reported and documented by this victim and a number of health providers;

"—criminal convictions for domestic violence—criminal harassment, stalking and breaches of past orders;

"—allegations of sexual abuse that precipitated supervised visits;

"—history of abuse in past relationships, including stalking, harassment, threats, aggressive, punitive behaviour, excessive drinking, financial abuse, emotional abuse, anger problems and pornography use;

"—separation;

"—obsessive behaviour: stalking, preoccupation with mother and child, past threats to her safety;

"—history of excessive use of pornography, with a particular interest in young women and the use of knives;

"—a history of excessive alcohol use;

"—a history of erratic employment;

"—a history of financial difficulties, including significant child support arrears in previous marriage and in this family;

"—perpetrator blames the victim for abuse and makes effort to discredit her at every opportunity;

"—extreme denial and minimization of domestic violence; and

"—child custody/access dispute.

"This is not an exhaustive list, but these 14 indicators of risk are well-known red flags in the field of domestic violence for recidivism and lethality.... I have a great deal of concern about" the child "having any contact with the father outside of the supervised access centre.... I have no confidence in the people in the father's life taking on this supervisory role."

Getting back to Julie's and Jenny's cases, do we see any similarities here? It's sad that Jenny and Julie fight to continue to have the rights of their children recognized in death and that these rights were not given the proper attention in life. Under the United Nations Universal Declaration of Human Rights, section 3 states, "Everyone has the right to life, liberty and security of person." These laws should be at the forefront in such cases. The amendments to the child law reform act need to be retro-

active for all families who were not protected by the new legislation, for they too may be sitting time bombs.

I find it incredible that there is little case law to support a child's inherent right to safety, and I'm shocked by the judicial viewpoint that long-term supervised access is not a viable option. Well, it is if it's the only safe option, other than no access, which the courts are rarely granting.

Why are we throwing caution to the wind? Whoever said that safety was a bad thing? Do they even understand the depth of what safety means to a child—emotional, physical, sexual, mental, spiritual—as well as the safety of their custodial parent? Perhaps next time those making decisions would be more willing to exchange places for a few months and let their children walk in the shoes that our children are walking in. But who would be under the 401 to catch them if they were pushed, as was the case with Inara Amarsi? I kept her picture on my bulletin board and still have it, praying for her safety and a return to sanity. Is she safe? Her life is forever in repair.

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Fifty-three thousand public signatures collected as a sign is also a statement as to the need for this bill to be passed. I'm sure that not one of them wants to be the next hostage taken by Anthony Brooks at Union Station. Family violence is not a private issue. It's becoming a very public issue—a public issue of safety, as well.

With the stroke of a pen, in less than an hour in court, the rights of children are being set aside in favour of parental rights, with little or no concern for the ramifications of their actions. The lawyers are spinning to win. The price is costly, not one many can afford—especially the children of high-risk cases such as ours. They can't vote; they don't pay taxes; they don't matter.

Decisions in courts are above accountability. Something's not right here. If directors of corporations holding public trusts are accountable, then the legal system should be held to the same standards.

Rather than conduct seminars offered by the Ontario Bar Association delivered by judges and lawyers entitled "Using the Family Law Rules to Your Advantage," in which lawyers give industry tips on how to "sharpen your ability to use the family law rules strategically to your advantage," to learn "which motions are designed to succeed or fail," "motions to vary interim orders" and—this is in the brochure as well—"tricks of the trade," perhaps they should be offering the following: "Everything you need to know to protect children at risk in Family Court proceedings—risk assessment tools every judge and practitioner must follow."

Rather than protect our children, the system is throwing them to whoever can afford the best lawyer. Sad to say, too many women and children are ending up in the coroner's office as a result.

In the Ottawa Citizen on April 8, 2006, domestic violence expert Peter Jaffe, who sits on the coroner's death review committee, states the problem quite succinctly: "The whole Family Court system is designed to make a deal, not protect people."

First, there is the issue of access to justice. Limited access to legal aid certificates, with restrictions to its time and usage, make it difficult to combat the vexatious litigation of an abuser.

Second, there is the highly dysfunctional system which throws high-risk cases into the same pot as all other custody/access proceedings in which the friendliest parent wins. It is a well-known fact that abusers are twice as likely to file for sole custody and use the family courts to further harass and control their ex-partners, yet the courts do not consider this to be hostile parenting at all.

I can tell you first-hand, I am not out to win a popularity contest, and there shouldn't have to be one when protecting one's child. Like Jenny, I'll do what I need to do to protect my child, even if that means breaking the law.

A parent who knows the inherent risk to their child, whether it be advocating for seat belt safety on buses, fighting for cleaner air because the child and so many others suffer from asthma, or keeping a child safe from an irresponsible parent, will do so with fierce compassion for the health and safety of that child. Make no mistake: This is a question of health.

Ironic how we're told by child protection agencies that if we fail to protect our children they will be apprehended from us, yet when we make the decision to leave and risk poverty to do so, we are revictimized by the very system we are assured is there to protect us.

When it comes to support, where are these agencies when we have left and need their help? Why is it logical that something must happen again before further action can be taken? How logical is this? How logical to take off safe supervision and wait for a catastrophe and then step in?

Remember little Luke, the boy who inspired the creation of Luke's Place in Oshawa? Luke was murdered on his first unsupervised visit with his father. Did the courts have the case background? Indeed they did. It makes one wonder why we don't have the constitutional right not to use the courts. We wouldn't be allowed into a condemned building for safety reasons, nor should we have to put our children's safety into the hands of those who will not protect them. It's like going to a podiatrist to perform brain surgery.

It's really time for the judicial system to give up its utopian vision of what the family should look like. One size does not fit all. We need specialized courts with safeguards for our children. Let's heed the lessons to be learned from these tragic deaths and err on the side of caution when issuing custody and access orders.

The need for a coordinated effort between the criminal and family courts is imperative, but none of this is new or particularly complicated knowledge.

We have lost precious lives, lives with dreams that will never be fulfilled, lives whose potential to society will never fully be known.

To even get to court, we and our children have suffered enough. Yet Jenny, Julie and countless others have been tragically revictimized by the system that had the knowledge of the risks in their case.

By giving children who die under these circumstances a proper inquest, we will be giving these children the potential to do in death what they were robbed of doing in life: to serve the greater good. If the political will is there to quickly pass pit bull legislation, then the political will must be there for our children as well.

I live with the constant and real threat that my child's safety is at risk and that we may end up on that growing list of preventable fatalities. In the meantime, my job is to provide a safe haven in which to facilitate the healing for the damage that has already been done.

I appear as Witness X. My name is not important. It may be different than Jenny or Julie. What matters is that the facts of our cases are hauntingly similar. Our dealings with the agencies that were there to serve us are almost identical.

I am here to support these parents and the memory of their children. These women have stood up with their families, with every ounce of courage they could muster to be here, to bring Bill 89 into effect and to advocate for other children. For this, I offer them my deepest gratitude.

Until the cracks in the system are filled and the issue of safety, in all of its dimensions, becomes the primary focus for our children, I do not personally believe that these youngest victims will rest in peace; and nor should we, while we have the power to put these safety measures in place. As they say, better safe than sorry.

Bill 89 is a step in the right direction toward further accountability. It speaks for the children who have died to protect the living. It speaks for my child. It speaks for me.

Thank you for your time.

The Vice-Chair: Thank you very much for your deputation.

Members of the committee, there's no time left for comments or questions.

Thank you again.

ANNETTE SACKRIDER-MILLER

The Vice-Chair: Our next deputant is Annette Sackrider-Miller. Please come forward. Welcome. You have up to 20 minutes.

Ms. Annette Sackrider-Miller: Thank you for asking me to speak today. As you've been told, my name is Annette Sackrider-Miller. My son, Michael, and I are grateful to Cam Jackson and the House representatives that they are taking the time to review our government's policies. I sincerely hope that today's meeting will help government to understand the policies and the needs of their people.

I will be speaking today from my son's perspective. Michael and I took many hours preparing his story so that you could hear his voice. Michael has been waiting four years to be heard. Thank you for taking the time to listen.

"My name is Michael. I am eight years old and in grade 3. As early as I can remember in my young life, my

biological father, Steve Malbrecht, was always drinking, smoking, yelling and hurting everyone a lot. Steve always told me that he did not want me and that I was mommy's suck.

"When I was a baby, my mom had to feed me outside so that Steve would not hear me cry. Steve never fed me or changed my diapers. He never hugged me or carried me or did anything with me. I had to go to my babysitter even if Steve was home because he would not take care of me. He would leave me and drink booze instead.

"I had to be careful not to make him mad. He does not like kids.

"He worked a lot, which made us happy, because he was not home to scare us.

"People did not understand that it was normal for me to see Steve sleeping drunk in his chair at night. We would leave him there so he would not wake up and scare us.

"When Steve came inside, we would leave him alone and go outside. If we bothered him, he would hurt us. He could not even walk right. He would fall everywhere and spit and sneeze everywhere in the house.

"Many times, I could not breathe in my house when Steve was home. My mom and I have bad allergies and we have asthma. Steve did not care. He smokes cigars all the time.

"One time I was playing with Steve's work boots on the patio. It was fun to try on big people's stuff. When Steve came in and saw me wearing his boot, he was very mad. He grabbed the other boot and threw it at me across the room. It hurt so much when it hit my head. I woke up later with my sister holding me. My sister was explaining what 'unconscious' means. Steve was pushing my mom against the wall and hurting her. He told her not to let me touch his stuff. We were all crying.

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"One other time, I was playing with the driving lawn mower in the garage. It was okay because the keys were not in it. I liked the shiny new lawn mower and just wanted to sit on the seat. Steve came in and saw me. I was so scared, I tried to get away. He grabbed me by the arm and lifted me high into the air. He kept smashing me into the ceiling until I stopped screaming. My mom heard me crying and yelling and came out to save me and said she would call the police if he did not put me down. He did, but then he hurt my mom instead and used very bad swear words.

"We always had to do what he said. If we did not, he would hurt us. Steve made us watch him hurt my mom and my family. Steve would get his gun and kill one of our dogs if we made him mad. He made us very sad when he would shoot them in the head.

"Steve hit my sister every day. He said that 'big red' needed to learn how to take care of a man or no one would take her off his hands. He called my sister very mean, bad words. Kari cried all the time. Kari would not have her friends over because Steve would get drunk, touch them, and say bad things to them in his underwear. My sister was sad to have Steve as a stepfather.

"Steve brought his son Shaun to live with us. Shaun yelled at me and would hurt me. Shaun would tell me that he would kill me if I bugged him. Shaun still says those things to me, but now I only have to see him a couple of times a year. He scares me too.

"My life was sad. Steve made me watch my mom and family being hurt by him. Steve wanted me to grow up to be a man so that I would know how to keep a woman in line. He would drag my mom around the house by her head. He would say that that's what women turn into—the c-word—when you marry them. He told me that my mommy would never leave him because he would shoot her, and she would never divorce him. He has many guns.

"One night when I was four years old, Steve was chasing my sister, Kari, around the house. He had already hurt my mom. I told my mom I loved her and asked her if she was okay. My mom was crying a lot. Steve could not catch my sister; she was too fast. Kari hid and called the police. Steve made me watch as he choked my mom and pushed her around. Then he got more beer. He's always drunk. He went to bed with more beer.

"I fell asleep with my sister in the rec room while the police came. It took many police to arrest Steve. He is 300 pounds. They took his guns too.

"The next day we left. The police told us that Steve was a very dangerous man and that they would protect us. They told my mom that Steve would try to kill her because she had had him arrested and he was really mad.

"We went to Deb Henry's house. She is a wonderful friend of my mom's. Deb helped us to get to the women's shelter. I was scared and wanted to be in my own bed. My sister stayed at her dad's for a while.

"Ladies came and talked to my mom and Deb. They told my mom that she must keep me away from Steve, so we stayed at the women's hotel place. Wonderful people there helped my mom to get some clothes. We played and had fun with other children who had to leave their homes too. We had Christmas there. It was sad because we were alone on Christmas, but the workers gave us some presents to open.

"My family had to be careful. We had no money because Steve took it all from the bank. We could not call anyone in case he would find us. We stayed at the hotel for a long time. My sister came back with us. Kari was sad because she got in trouble for not going to school. She failed her classes.

"We got a house to rent, but Steve found us. My mom had to wear a special button on her so police could help us if he came. When he would call to scare us, my mom would take us to the police station or the women's hotel.

"Later when we got home, our house was all wrecked. Steve and people had taken everything. We had to clean up for a long time. Mom got us clothes and furniture.

"Steve got a lawyer and made my mom take me to the police station to see him; my mom and police would keep us safe there. I was scared and wanted to leave. I did not want to see him. Deb and my mom made me feel better and took me home after a while.

"I had to see Steve because the judge man said so. My mom and her friends would watch Steve and me visit at McDonald's so I would be safe. He did not even play with me. I went there lots of times. I liked McDonald's but I wanted to play with Jenny and Dawn because Steve just sat in his chair. Steve would go out to his truck to drink and smoke.

"Later I went to visit Steve at Merrymount place. The judge man made mommy take me there. I liked playing there. My mom would stay for a while so I would not be scared. Steve does not even know how to play. I did not want him to be there and would tell him to leave me alone.

"No one cared how I felt except for my mom and her friends. The judge man made me visit Steve. I do not like him and I am scared when I am with him. I told all of them that I do not want to see Steve. No one listens to me.

"After a while, the judge man told my mom that I would have to go with Steve by myself for three hours. I was so scared. No matter what I said, they made me go. I thought the police were there to protect my family and me. My mom was wrong. Mom told me that we would be safe. The police chased me around the parking lot, the lawn and even trapped me in the building. They lied to my mom and they did not take care of me. They lied to me. I was crying, screaming for my mom to help me. My mom was crying, asking them to be nice to me. The police took me, kicking and screaming, begging for my life, to Steve's car. Every week they did this to me. I never wanted to go. They did not listen. They like Steve better. Steve tells them to catch me. Steve does not even talk nice to me or get out of his car. The police do not care.

"I was worried that my mom was getting into so much trouble because of me. She had to keep going to the children's building to get help. No one there would help her. They would take me in a room and ask me questions. I was five years old and I was too scared to tell them without my mom there. I was scared they would tell Steve and he would hurt us.

"I asked my mom to tell the ladies that Steve left me outside for a long time. I did not know where he went or where he lived; I looked around for him. I was scared and crying. Someone helped me find Steve's house after a long time later. My mom called the ladies at the children's building. The ladies did not get Steve in trouble.

"I told my mom about Steve yelling, taking me to work in a construction backhoe, smoking, drinking booze, scaring me and never playing with me. His girlfriend walked me through a really deep river. Sometimes he did not feed me at all. My mom would feed me as soon as I went back with her. My mom took me to the hospital so many times for air. I would wear their special air mask to feel better. My mom took me to tell the ladies. The children's ladies never helped me to stay safe.

"One time when I was six years old I got very sick from Steve's smoking. I could not breathe or walk. I did not want to play or even talk. I could not get up. My legs

were all purple and looked very bad. My mom took me to the hospital. I was really sick. The doctors said I might die. I have a disease called Henoch-Schonlein purpura. It's a blood disorder. My kidney was not working and I had very low blood pressure and got oxygen. The doctors gave me so many needles and medicine. My mom stayed with me in the hospital for a whole week. I am happy that I had a really good doctor. He told Steve that I could not go with him. He wrote a letter to say that I should never be near to smoke. Steve yelled at my doctor and threatened him. The doctor said he did not care how mad Steve was; I was the important one. That made me feel really good. I had two weeks of hospital to make me better. My mom and her friends took me everywhere, even though she had no driver's licence because Steve hurt her neck too bad. The children's ladies never helped my mom or me. They get mad when my mom comes there and they say she is bothering them.

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"When I was out of the hospital, the police told my mom that Steve could help take care of me. My mom tried to tell them that the smoke makes me sick. She told them Steve does not know how to take care of me. They did not listen. My mom went to the police station to talk to the police and show them the doctors' letters. They did not listen to her. They kept her in a room. My sister and I were worried why my mom was taking so long. I was crying and I was scared. We went to town to find her. It was the worst day ever for me. We parked at the arena to wait for my mom. Then five police cars all surrounded the truck. I was crying and was so scared. I hid on the floor in the backseat. They wrote a ticket to my sister for not making me stay in my seatbelt. They made my sister drive to the police station. They tried to make me say I wanted to go with Steve.... A long time after, my mom came out of the station. Mom was very upset. They had her there a long time so they could catch me. Steve was mad, telling them I had to go with him. My mom would not let them take me. Mom took me back to the hospital because I could not breathe again. I was scared and do not trust police. My mom tried to call the children's ladies; they would not help my mom. The lawyers tried to help us.

"Many doctors have written letters to tell Steve not to smoke around me. Some of the letters say I can never be around anyone who smokes, not even in their cars or their houses, because the smoke stays there a long time. No one cares, only for Steve. When I go to Steve's I have to take my special inhalers because Steve and his friends do not listen to the doctors or the judge.

"I had a special friend at OCYC that tried to tell the children's ladies and judge how I feel but no one wanted to listen to her either. Steve has all the rights. Everyone does what he wants because he tells them.

"I always get bad dreams of Steve hurting us. He has his guns and hurts the dogs.

"When I was seven years old, the lawyer told my mom that I have to go to Steve's every other weekend. I told my mom that I was scared but I would go because I did

not want my mom to get in trouble. Steve never plays with me. He makes me work. He leaves me with his girlfriend or I watch TV or computer all day. Lots of times he takes me to the construction work too. I am scared in the streets with so many cars and machines. I stay there all day and do not even get food. Sometimes he makes me go in the backhoe with him. There is no seat for me. It hurts, but I cannot say anything because he gets really mad.

"Last month, Steve took me to the Indian reserve to get smokes and booze. Last time he had \$5,000 and gave it to the man with black hair. He says he never has money for presents or doing fun things with me. I know he spends lots of money on smokes and booze.

"Steve makes me get his beer when I am at his house. I even have to go to the Beer Store. I carry all the boxes in and out. Last time I carried 21 empty boxes in and five full boxes out. They are very heavy. He did not help me. I got pictures to show my mom.

"The judge and people do not listen to me when I tell them that Steve drinks and smokes and scares me. I took pictures and gave them to my mom to show to the judge. Steve says to them that I am a liar. I am not. He is.

"Steve and his girlfriend Marlene yell and swear at me all the time. They fight really mean fights in front of me. They swear at each other and at me. Sometimes Marlene hits me.

"They hurt their dogs. Sometimes their dogs bite them and make them bleed when they hurt them. I feel sorry for their dogs. Steve has mean dogs. He teaches them to bite people at training.

"They took my bedroom door off, so I cannot shut it. Steve was mad that I would hide in my room when they were mad at me. Marlene watches me changing. It makes me feel very uncomfortable. I told my mom. My mom's lawyer told them to give me privacy because I'm eight years old now.

"The lawyer told my mom that I had to go to Steve's for two weeks this summer. My mom went to the stores and got me many fun things to take with me. Mom even got me medicine just in case. We bought a special case that locks so I could keep my cellphone and private stuff in it. I could wear the keys so Steve and Marlene cannot shut my phone off or take my stuff. I had to go, even though I had never been away from my mom that long. I was really scared, but she told me that I could call her every day on my phone. The second day I was at Steve's I had to call my mom. I did not want to go with Marlene to the market. Steve was very mad. He chased me and yelled at me like a train. I was crying and ran away from him. I locked myself in the bathroom. He was banging hard on the door, swearing at me. I could not breathe; I knew Steve wanted to hurt me. My mom kept me feeling better by talking to me the whole time on the phone. Steve went away after a while.

"Steve and Marlene lied to my mom and the police. He did not even take holidays. Monday morning, they went to work. I played on the computer and watched TV all day. We didn't eat supper till 9:30 at night.

"On Tuesday when I woke up, no one was in the house at all. I looked around. I looked outside everywhere. I called my mom because I was scared. I called my mom the whole day. My mom would make me feel better by checking on me the whole time. My mom was scared to come there. I was glad that Steve and Marlene were not there but I was still scared. When it was 4:15, Steve and Marlene came home from work. I was very hungry, but I am not allowed to eat. They have a camera on the fridge so they know. We ate at almost 10 p.m. I asked Marlene not to go to work until Steve was home from work. She said no.

"On Wednesday, I was alone again when I woke up. The truck and car were all gone. No one was there but me. I was scared, so I called my mom. My mom got upset because they left me alone again. My mom would make me feel better and asked me to look around for someone. No one was there. My mom came from home and drove around a lot. She told me to wave when she went by. I was feeling much better because I knew she was outside. We talked all the time on our cellphones. My mom called the police because I was scared and I didn't trust them. The police told her that eight years old is too young to be left alone.... My mom's lawyer friend came too. They were all upset that I was left alone. We talked a while. The policeman went to look for Marlene down the road, where her car was. They came back after a while. The police talked to Marlene about leaving me alone. The police also talked to my mom and the lawyer man. The policeman said he could not charge Marlene because I was able to talk to my mom on the cellphone. The police asked my mom to take me home.

"I am over eight years old now. Steve is still trying to get me over to his house again. I do not understand why I have to go. I should have rights to say I don't want to. I am scared there and Steve and Marlene do not treat me nice or good. The police keep calling my mom, scaring her, because Steve tells them to.

"My mom is kind and gentle and I enjoy my life and time with her and her nice friends. I am happy with my family. We do lots of fun things together. We learn lots of things together. I like my life without Steve.

"When do I decide what I like and who I like? When Steve was at my house with my mom and sister, they were there to protect me. Now I have to go all alone and it is more frightening, because Steve knows that I am alone. Not the police, not the judge man, or even the doctors or social workers will help me.

"I have never known a day without fear, an escape plan, a day I could play without worrying about my safety and my mom's safety. I have never known a school day that I was not looking around, worried that Steve was wanting to steal me. I would like to know how it feels to just play, breathe normal, have the name I want, have fun with my friends any day I want, run, play, go for long holidays with my family without Steve's permission. I did not even get to go to Disney World because Steve would not let my mom take me out of the country. I want to be like other kids. Steve should leave

us alone to have a normal life. He did not treat us good or like us when we lived with him. We do not want to be scared all the time.

"My mom, her friends and her lawyer have tried to protect me, but no one listens. Please help us.

"Thank you for listening to my story today."

The Vice-Chair: Thank you, Ms. Miller.

Members of committee, that's all the deputations scheduled for this morning. We will take a recess until 2:30 p.m.

The committee recessed from 1329 to 1437.

CANADIAN CENTRE FOR ABUSE AWARENESS

The Vice-Chair: Ladies and gentlemen, the standing committee on regulations and private bills is back in session. Our next deputant is Mr. John Muise from the Canadian Centre for Abuse Awareness. You have up to 30 minutes, and if there's any time left then the members can ask questions or provide comments.

Mr. John Muise: Thank you, Mr. Wong, all the MPPs and the people in the audience here today. It's much appreciated. My name is John Muise. I just took on a role as the director of public safety for the Canadian Centre for Abuse Awareness. I just wrapped up a 30-year career as a police officer at the Toronto Police Service, where I retired holding the rank of detective sergeant attached to the homicide squad. My last posting was manager of the major case management unit and the retroactive DNA team.

Previously, during my police career, I was seconded to the then full-time Office for Victims of Crime, the Ontario advisory agency, between 1998 and 2004, where I was employed as the manager of special projects and worked for the chair, Sharon Rosenfeldt, and vice-chair and special counsel, Scott Newark. I had also previously been—and I'll elaborate on that—a volunteer and a member of the board of directors of the Canadian Centre for Abuse Awareness while I was at the Office for Victims of Crime and the police service.

Just by way of introduction about the Canadian Centre for Abuse Awareness, it's a non-government registered charity founded by Ms. Ellen Campbell in 1993. The Canadian Centre for Abuse Awareness, based in Newmarket, accepts no government funding in support of ongoing operations but rather relies on donations from individuals, corporations and other non-government sources. Ellen Campbell is the current executive director of the organization and the founder. CCAA has as its mission the prevention of child abuse and the support of adult victims of child abuse. CCAA delivers a number of programs in support of crime victims and survivors, including support to over 70 organizations that provide direct service in the community.

More recently, and to give you a sense of what I'm doing there and what the CCAA has done on the public safety front, the work of the CCAA has come into the public eye as a result of its association with the Martin

Kruze family. As you know, Martin was the first victim of the Maple Leaf Gardens child sex abuse scandal to courageously come forward and disclose his abuse at the hands of a brutal perpetrator. It was four days after the accused in his case was sentenced to two years less a day in jail that Martin tragically took his own life by jumping off the Bloor viaduct. Although it was too late for Martin, the offender's sentence was increased to five years by the court of appeal.

The association with the CCAA, coupled with a further one developed with the then Ontario Office for Victims of Crime, resulted in the publication of the CCAA's Martin's Hope report, named in memory of Martin. I've left a copy for all of you. The report makes 60 recommendations for legislative reform of the justice system, including 21 directed at the provincial government. The report was released on November 19, 2004, by then Chief of Police Julian Fantino and a copy was delivered to the Honourable Michael Bryant, Attorney General, the next day. It should be noted that these recommendations were as a result of 10 round tables conducted around the province where the CCAA spoke to 150 front-line criminal justice professionals, crime victims and survivors of abuse. We work from the premise that those are the folks who can tell us what's wrong with the criminal justice system and how to best fix it so that people aren't revictimized.

To illustrate an example of one of our recommendations in the Martin's Hope report, the Ontario Ombudsman's recent announcement of last week to conduct an investigation of the Ontario Criminal Injuries Compensation Board is one of the recommendations—it's 11-6—contained in the Martin's Hope report. The CCAA has spoken out publicly about the problems associated with the CICB and has assisted the Ombudsman's office by meeting with investigators and providing information and names of crime victims in support of their investigation. Obviously, we're pleased with their announcement and we hope that that recommendation will be fulfilled.

I got back from a week's holidays late Sunday night and was deluged with some phone calls and e-mails, so I had yesterday to work on this. It was fast and furious. Fortunately, the bill is simple and succinct. I think I was able to hit the high points. If the brief looks rushed, my humblest apologies, but I only had yesterday to work on it.

"We speak for the dead to protect the living." If you visit the website for the coroner's office, you will see this quote prominently displayed on the home page. It's identified as the mission statement. It is a good one and it is justifiably true. Anyone familiar with that office knows it has a unique history of holding inquests into cases of unlawful death. Yeo, Stephenson and May-Iles are all examples of inquests that focused on how a particular social system permitted a death to occur. The recommendations for reform of institutions that came out of these inquests cannot be overstated.

You folks know exactly what Bill 89 proposes so I'm not going to repeat it in my brief. Suffice to say, quite

frankly, we believe that the bill as written is not in need of any tinkering or amendments, certainly from where we sit. The bill is clear and succinct. We will restrict our comments to why we support the bill, coupled with responses to what we anticipate might be the arguments against this bill.

Although we know that all child deaths under the circumstances contemplated above are apparently the subject of review by the coroner's office, not all are the subject of inquests. Currently, the Coroners Act calls for an automatic inquest where a person in the custody of the state, such as a police lock-up or corrections facility, dies. In addition, any death that occurs as part of a construction project or mining operation will also be the subject of an automatic inquest. These are held whether or not a criminal act is committed. So if somebody ends up having a heart attack in that cell, it's going to be the subject of an inquest.

The CCAA quarrels with neither of these, and in fact a significant parallel can be drawn between the person who dies in police custody and a child who dies as a result of a criminal act while under a supervision access order. The parallel, of course, is that both are in the care of the state. The expectation of transparency and accountability is a high one for those found dead in police custody; indeed, it should be. Many a police staff sergeant has sweated bullets before having to testify on how an inmate managed to commit suicide in the police lock-up. Why should the test be any different for a child over whom the state has a legislated responsibility? In fact, in the case of the police in-custody mandated inquest, there is no requirement—and I emphasize that there's no requirement—that a criminal offence be the predicate act to trigger an automatic inquest. This bill would first require a criminal offence to be the predicate act to have an inquest called where a child is murdered.

A quick review yesterday of the debate at second reading of this bill revealed comments from one member of the Legislature implying not only that it was inappropriate to order the coroner to hold an inquest, but also that it might even be illegal. We feel obliged to deal with these comments head-on, notwithstanding the fact that they were delivered, I believe, with the best of intentions from a member no doubt concerned with the integrity and independence of the coroner's office. But if that were in fact the case, wouldn't the two sections about deaths in custody and accidents at construction sites and mines be inappropriate and potentially illegal? What about the current section 22, which allows the minister to order the coroner to call an inquest into any death where he or she sees fit? The act as it is currently written doesn't contemplate 100% independence for the coroner, and these amendments proposed by Mr. Jackson really don't change anything. This is an entirely appropriate amendment, in our estimation, and we think it sets the bar where it should be in terms of the protection of children.

The other section that we'd like to comment on is the allowance for a victim as defined in the Victims' Bill of Rights Amendment Act to apply for compensation from

the victims' justice fund where they have been granted status at an inquest. For far too long, the families of crime victims have been forced to hold bake sales—and I'm not exaggerating—or go begging cap in hand for a substantial discount from a lawyer sufficiently interested in representing their position at an inquest. This is often against the backdrop of grief, loss of employment, breakup of families and other assorted misfortune that befall families when a loved one, particularly a child, is murdered.

This is not new ground that is being covered. Mr. Jackson, the MPP who introduced this bill, is a long-time victims' rights advocate, and he has pushed for the passing of this kind of legislation for some time now. In addition, the groundbreaking report on victims' services entitled *A Voice for Victims*, from June 2000, completed by past members of the Office for Victims of Crime, proposed almost exactly the same thing. At the time of that report, I was seconded to the Office for Victims of Crime from the Toronto Police Service. The report makes precisely this recommendation at recommendation 20, and the narrative in support is every bit as applicable today as it was then. It is repeated here:

"Provision of counsel to victims' family members at inquests: The coroner may grant standing to family members at such inquests (and usually does) but has neither the authority nor the budget to provide funded counsel. This is relevant in the kinds of inquests referred to involving crime victims as generally the other parties are public institutions governed by public legislation. The inevitable result is publicly funded counsel arguing (properly) legal interpretations of duties, responsibilities etc., all against a backdrop of potential civil litigation. Our experience in this area reveals that victims are frequently reduced to shopping mall fundraising efforts to get counsel, which is wholly unjust given both the predicate event which causes the inquest and the public benefit deriving from the information the inquest provides."

Put simply, while government institutions are often more concerned with covering their respective backsides, the information elicited by legal counsel on behalf of crime victims is what forms the bulk of the sensible public safety and criminal justice reform recommendations that often flow from a coroner's inquest. That crime victims have to go cap in hand to get representation that benefits all in society is beyond cruel. Frankly, it is obscene.

Against the backdrop of a victims' justice fund, funded as a surcharge on speeding tickets and other similar infractions—a tax that I like to refer to as one that every Ontarian can love—that had, at last published reports, somewhere in the neighbourhood of \$40 million in surplus—a topic for another day—lack of funds isn't an excuse. We don't even need the \$426 million in surplus that was currently identified in the government budget. A review of the victims' justice fund suggests that it is entirely appropriate to make this sort of allocation from that particular fund.

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As an aside, the CCAA would have hoped to see someone from the current Office for Victims of Crime testifying at committee about this legislation of critical importance to crime victims. Alas, they don't appear to be on the public committee list. This is entirely regrettable, and is no doubt a product of the fact that the OVC's appointed community members are now part-time rather than full-time, as was previously the case. The CCAA raises this not to be snide or difficult, but rather to point out the fact that members of the previous full-time office would have been here in this public venue to respond, relying on the voices of crime victims, survivors and front-line criminal justice professionals, to this bill. Although not specifically the subject of this meeting, as a legislative committee it is certainly within your purview to provide written advice to the Attorney General and this government on the urgent need to repair this significant deficiency in relation to the OVC. We encourage you to do so.

In closing, the CCAA would like to reference two of the comments made by members during debate of this bill. First are MPP Christine Elliott's comments about the bill itself: "This bill is elegant in its simplicity and resolves the specific issues that we're faced with today succinctly. I support this bill wholeheartedly and urge my colleagues in the Legislature to do likewise."

Second are MPP Dave Levac's comments about Mr. Jackson's commitment to this issue and the need for all members of the Legislature to come together in support of this bill: "I say to the member from Burlington, as I did two years ago, I thank you for bringing this forward. I fully support what you're asking us to do. I challenge us all to set aside any shackles you may have been given or want to use and to say, 'Let's just do the right thing.'" Frankly, the CCAA couldn't have said it any better.

Finally, we would like to thank the families—people I haven't met yet—for their commitment, bravery and courage in the face of adversity. The CCAA looks forward to the memory of your children being honoured by the passing of this bill as it is written.

The Vice-Chair: Thank you, Mr. Muise. Members, we have about 15 minutes, so there would be five minutes per party. I will start with the government side. Mr. Levac.

Mr. Levac: Thank you, Mr. Muise, for your presentation. I appreciate it. In your experience in your other life, were you subjected to the types of investigations that this bill is now trying to deal with?

Mr. Muise: I personally was never called to a coroner's inquest as a police officer. I can tell you that some of my colleagues were, for the most part in relation to police in-custody deaths. They truly did sweat bullets, and many accused the experience of turning their hair from brown or black to grey. It's not taken lightly in the police community because it's the kind of forum, quite frankly, that although blame is not said, there's a potential for change. Certainly you have to be accountable and you have to justify your actions, and of course it can all

come back to being dealt with in the police service in a disciplinary role. I guess that's my long way of saying that I never experienced it myself. I know lots of members who have, and on occasion with the other kinds of inquests, the kinds that are contemplated with this bill that Mr. Jackson has introduced, I do know that recommendations that have come out of—I'm particularly familiar with the Stephenson inquest, and although it took a long time, the end result of the recommendations that flowed from that bill, it's the same kind of situation as what's contemplated here. The end result is significant and positive, potentially.

Mr. Levac: I appreciate that. The question wasn't designed to check that. You just had a passion in your voice and I wanted to know if there was an experience.

Mr. Muise: No. I can't say that.

Mr. Levac: Thank you. Very quickly, and then I'll turn it over to my colleague: It's your understanding, and I clearly hear you saying it, that you don't want to see the bill changed in any way, shape or form. Do you believe, then, that it covers off the people we want to catch and that it would cover off clearly the circumstances we've heard in terms of the four various cases? Is that your opinion?

Mr. Muise: I think so, subject to somebody else thinking of something that I haven't. Quite frankly, I think there's room to add another category, and that's where anybody who ends up dead, child or otherwise, as a result of somebody who's out on bail, probation, parole, conditional release or some other form of judicial release, section 8.10 order, take your pick—I would add that to this bill. I don't suspect that's going to happen, but certainly, again, that's for another day. In terms of what's written there, I think it covers everything. If somebody knows better and I've missed it, then I certainly would like to hear it and I welcome it.

Mr. Levac: I always like to improve things, yes.

The Vice-Chair: Ms. Sandals.

Mrs. Sandals: I think you mentioned that in your past history you were a police officer. In a number of the family stories that we have heard today, I think the women have experienced some frustration in dealing with the police in terms of trying to get the core problem, which was the abuse, initially of the woman, dealt with seriously by the police. I wonder if you've dealt with issues around how to get police to recognize and take seriously and intervene in cases of domestic violence early enough.

Mr. Muise: Like I say, I go back 30 years to 1976. The best I can say is—and it might seem incredible to people listening right here today—it has improved a lot from 30 years ago. What I suggest, as a former police officer and the current director of public safety for the Canadian Centre for Abuse Awareness, is that we have a ways to go, overall. Yes, absolutely. I think the two biggest issues attached to it are training and, once the training has been done, putting that training into action. I hope that as we undergo, certainly in policing, a changing of the guard—there are a lot of crusty old guys moving

on, and mostly guys—that's going to impact how women who are suffering abuse are treated.

It's not carved in stone. I think of the Toronto Police Service because that's what I know. Every division has a domestic violence coordinator. He or she doesn't just coordinate. They are responsible for all of those arrests and the charges and for ensuring—and this is a long way from 30 years ago—that when that alleged offender gets bail, for example, the victim finds out exactly what the conditions of that bail are and what the situation is and finds out that very same day. I can tell you, that didn't happen 30 years ago. I know that's happening on the Toronto Police Service. I suspect it's happening elsewhere. That's a good thing. But there's lots to do across a range of responses, and it's not just the cops.

This is not new. This transcends governments. Often, the people who perpetrate these offences are already out on bail or some other form of conditional release.

This province has—and it's one of our recommendations in our Martin's Hope report—on the electronic monitoring front, a really cheap tool, keeping up with the technological times; we have so underutilized that tool in this province that it's obscene too, quite frankly.

So there are a bunch of different fronts that we need to work on. I certainly don't want to avoid your question. The cops have work to do.

The Vice-Chair: Mr. Jackson.

Mr. Jackson: John, thank you very much for being here. I must say for the record that you and I have known each other for quite a few years and have worked together in your various capacities.

I do want to thank you for the brief, because you speak independently about the issues around the Office for Victims of Crime, which I had a hand in designing and developing about 16 years ago. So I was glad you were a part of that.

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Earlier today, we talked to families who expressed, amongst many of their frustrations and concerns, their inability to navigate through the system. Would you briefly describe for the committee how the Office for Victims of Crime actually—how, when introduced by an Attorney General or referred by the government, there actually was assistance provided to them in order to better understand and navigate through the system, and how that has been dropped as part of the mandate. I'm trying not to be inflammatory here. I have very strong views about what's happened. However, we could not have had more eloquent statements this morning from families who are just floundering in the system, not knowing how to respond. Just the act of writing to the coroner took me eight or 10 hours of research and work with the family. There was nobody in the system, other than the former OVC, to do that.

Mr. Muise: Thank you. Obviously, I have a passion and certainly a special place in my heart, and quite frankly have no interest in going back there currently. The Office for Victims of Crime was—some people referred to it as a political office, and maybe it was. I

don't know. I prefer to look at it as something that was an office that intended on making a difference. I remember the Honourable Charles Harnick, the Attorney General at the time, who originally announced our office, saying that it was an office with a difference. I believe it was. We had a murder victim as the chair. We had an activist crown, a previous crown attorney from Alberta, and the previous executive director of the Canadian Police Association as the vice-chair. We had seconded police officers, seconded victim witness people, and a variety of crime victims who had experienced crime in the worst way. All of those things provide for an interesting and challenging workplace.

But I can tell you that what grew out of it, the jewel that I think you're talking about, was our special victims unit. We saw it as two things: one, a unit where we could find out, for instance, as one example, what a horrible job the Criminal Injuries Compensation Board did of responding to crime victims. So certainly that was one of the things that we tried to work toward. But in addition, we also, in that special victims unit and the jewel that was the unit, were all able to sit down in that office as seconded police officers, somebody with a legal background, crime victims and victims serving people. So when somebody called in with these sort of layered, incredibly complicated issues—"The cops aren't listening. The Criminal Injuries Compensation Board is working us over. I'm not getting answers. I don't know what's going on"—we would sit down and conference these complaints. We were able to, if necessary—I remember at 5 o'clock on a Friday afternoon sending a letter after getting off the phone with the person in charge of the Don Jail, wondering about why somebody had gone on the lam. That went via fax. In 15 minutes, somebody who was going on holidays the next Monday was back on the phone: "We need to deal with this. This is a public safety situation." So there were lots and lots of files that we dealt with where people just were frustrated and getting worked over by the criminal justice system, that secondary revictimization.

We pumped out a lot of product too. A Voice for Victims was one example, and I know that some of you around the room have probably seen it, probably seen it waved—I certainly remember some opposition MPPs at the time waving it around in the Legislature. I think they probably broke the rules. But the point is, we were allowed by the government at the time to push the agenda of supporting crime victims and enhancing public safety, and we were full-time, so we could create that product, we could keep pushing things through. And of course we had the special victims unit, where we could respond to the very complicated problems. What happened was, of course, there was a natural sort of regeneration and those of us who were there left, and I quite frankly understand that 100%. People want to bring their own people in—they should. The problem is when you go from full-time to part-time, you really can't get that much work done, and you certainly can't have a special victims unit with folks who come in three or four times a year for a couple

of days to talk about issues and then go away. It doesn't work. So, apparently, the victim secretariat has their own special victims unit. The irony attached to that is the people we have referred—because we can't afford to have an ongoing special victims unit at the Canadian Centre for Abuse Awareness; we don't have the funds. But the people we refer, ultimately almost all, call us back saying, "We didn't get any help down there."

So I think it's difficult. I don't want to be critical of people, but I think it's difficult when you work within a bureaucracy to send a hard-hitting letter to a crown attorney saying, "What are you doing?" I think it's really difficult. I think it's hard if you're in the bureaucracy to send a letter to the deputy minister saying, "What are you doing?" or, for that matter, to the Attorney General or the Minister of Community Safety saying, "What are you doing?" That's what we did, and it was really good for crime victims. I think the government thought it was pretty good too, and that's okay, that's a nice by-product.

So the old office, they'd be here today, testifying, and if there's another day that they're coming, I take it back and I humbly apologize. It's a four-page bill, and it speaks to a very specific issue. This is a significant bill for crime victims, as big as it gets and as good as it gets. Since the Victims' Bill of Rights and the Victims' Bill of Rights Amendment Act, it's as good as it gets. The OVC would be here with bells on. I say that as an example of how crime victims in the province and ordinary Ontarians suffer as a result.

Another example was, sitting there, we were able to move quickly, and of course the Office for Victims of Crime—and it's sort of unique, arm's-length—works well when it has a connection to the people who are the ministers and the government in power, whatever government that would be. I use this as a small example; it's an example I'm very proud of: On September 11, 2001, we were all sitting watching the TV sets, like I suspect all of you were, going, "Oh my God, what happened?" And I remember having a conversation with Sharon Rosenfeldt and Scott Newark and saying, "We're the Office for Victims of Crime. We need to do something. We have to, even though we're not the Canadian government." The Canadian government wasn't jumping on it, so I remember spending all day and all evening writing a report, and within a handful of days, it went to the Premier's office and it went to the minister's office and within a handful of days, the Premier and the minister were announcing a fund and a response. Myself and three others from the OVC jumped into a car and raced down, because we knew there were dozens of Canadian victims. It turned out there were 25 or 26, but we knew there were people who needed help and we could help. Beyond sort of all hands on deck at the consulate in New York, there wasn't any real Canadian response. So we went down there and a couple of representatives of the ministry were sent down and—I want to be polite—we were sand-bagged. Even though, with my badge, we had managed to get right into the inside of the victims' centre and met with Mr. Giuliani's reps there, who were in control and

shot the breeze with Bill and Hillary Clinton, we weren't able to set up the way we wanted, because at the end of the day, it wasn't supported.

I should keep it on a happy note. The reality is we were able to respond later when the victims came back after we dealt with some of the more petty issues. We were able to make sure that the Ontario victims were able to attend the September 11, 2002, memorial and we went with them and the ministers were there with them. It was an appropriate response to a cataclysmic crime. That's just one small example. We were able, as Mr. Jackson knows, to provide very specific advice on a number of projects, one of which was the ROPE squad.

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The Vice-Chair: Thank you. Your time is actually up, if you are able to wrap up very quickly.

Interjection.

The Vice-Chair: Okay. Ms. Horwath.

Ms. Horwath: Today we heard from a number of families who seem to have a common experience in that the systems failed them: police systems failed them, family courts failed them and children's aid societies failed them. Your group is dealing with abuse awareness. Can you tell me briefly if you believe that internal systems of review are working for people, in your opinion, or are external systems of review for these systems better and less biased?

Mr. Muise: It's a very good question. They work when there's an opportunity for accountability, but I'll give one example. You raise one of the organizations. The children's aid society, particularly the Toronto Catholic Children's Aid Society, is one example. We've had one disaster after another over the years. I find it bizarre that, for instance, the Ombudsman of the province can't wade in, I understand—and somebody can correct me—when the province funds children's aid societies to the tune of \$1.2 billion a year.

It's almost exclusively external accountability that at the end of the day makes a difference. That could include the Ombudsman's office. It certainly includes a coroner's inquest because you have people who come, you have all the players there and it's in an independent setting. I don't suspect the minister picks up the phone and calls the person in charge of the coroner's court that day and says, "Look, you know what? Let's take a bit of the edge off of this." I don't think it happens and I would never believe that it would happen. So that external pressure—there's no question. I always prefer it.

I use them as an example. I didn't want to have to go to the Ombudsman's office, but no one was listening about the Criminal Injuries Compensation Board. So I went there and I gave them names and I provided a two- or three-hour taped statement. I said, "Call me any time." If I wasn't in the wilds of Quebec last week, I would have been at the press conference. We didn't need to do it that way, but you can't ask the ministry to investigate the Criminal Injuries Compensation Board, because the end result—and I don't want to be sarcastic; I sometimes can't help myself—is more about how many paper clips

you used and less about, "What about the people we serve?" It's the cops; it's CAS. Whenever there's an external opportunity, that's when you have the opportunity to make a difference, and I can't think of anything much better than either the Ombudsman's office or a coroner's inquest.

The Vice-Chair: Thank you, Mr. Muise, for your deputation.

Mr. Muise: Thank you very much. I appreciate the opportunity.

MINISTRY OF THE ATTORNEY GENERAL

The Vice-Chair: Next, we have representatives from the Ministry of the Attorney General: Marie Irvine and Judy Newman. Please come forward. There are three of you. You will have up to 30 minutes. Please identify yourselves before you speak.

Ms. Judy Newman: I wanted to thank the committee for inviting the Ministry of the Attorney General to attend to speak to the supervised access program that's funded by the Ministry of the Attorney General. I'm Judy Newman and I'm the manager for the supervised access program for the ministry. Accompanying me are Marie Irvine, who is counsel for the policy division, as well as Andrea Strom, who is the director of policy for the ministry as well.

It's my intention to provide you with a brief history and description of the supervised access program at this time and to entertain questions.

The supervised access program was created as a pilot project in 1992 as a joint project of MAG, or the Ministry of the Attorney General, the Ontario Women's Directorate and the then Ministry of Community and Social Services to provide service to separating families with orders for custody and access who were ordered to have their access supervised.

When I refer to "supervised access" and when I refer to "access," I'm referring both to fully supervised visits on-site as well as to supervision of the exchanges or the transfer of the children from one parent to the other for visits off-site that we don't oversee. But we do oversee the exchange.

The program received ongoing funding in 1994 following a very positive evaluation. Province-wide expansion was funded in 2000. Prior to 1992, there was no government-funded service for separating families needing a place for safe contact between children and non-custodial parents. There were some services provided by a variety of organizations scattered across the province. Mostly, supervised visits were supervised by family members, and supervised exchanges were conducted in public places such as fast-food restaurants and police station parking lots.

Currently the ministry has transfer payment agreements with 37 separate non-profit organizations across the province that were selected by a competitive process. We have services in each of the 52 court districts across the province in 78 sites. Our service providers include the

YMCA and YWCA, children's mental health centres, child and family service agencies, CASs and free-standing organizations formed specifically to provide supervised access.

In 2005-06, Ministry of the Attorney General supervised access centres provided service to about 1,800 children and conducted about 50,000 supervised visits and exchanges. Some 99.9% of visits and exchanges occur without critical incident being reported. The current base of the transfer payment for the program is a little under \$4 million. Centres charge fees for service and for reports that they provide using ministry guidelines, and they're based on a sliding scale. The fees may be waived if someone is unable to pay. Fees account for no more than between zero and 6% of centre revenues.

The purpose of the program is to provide a safe, neutral, child-focused setting for visits and exchanges or transfers between the child and the non-custodial parent or another adult such as a grandparent where there is a concern about the safety of the child and/or the custodial parent. Trained staff and volunteers facilitate the visit or the exchange. They don't enforce orders. It's a facilitation, not an enforcement. Supervised access also gives integrity to access orders of the court where compliance has been an issue, and provides notes of factual observations of the parent-child interaction to assist the parties, their lawyers and the courts in making decisions about ongoing access.

Ministry of the Attorney General supervised access centres do not provide service to children who are in the care of the children's aid society or while the CAS is conducting an investigation. Ministry of the Attorney General supervised access is to be a fair and neutral setting where safety and child focus are the priority.

Service is provided on-site and in a group setting—that is, staff do not go to people's homes or follow them into the community, and they don't transport adults or children.

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Most centres operate with one full-time coordinator and other part-time paid staff, and while many centres use the service of volunteers to enhance the service of paid staff, their availability has been diminishing. Service is usually available on weekends and some weekdays and evenings. Centres don't provide counselling, mediation or other services to clients, but do refer them to appropriate community services. They also don't conduct assessments or make recommendations about custody and access.

Supervised visits might be appropriate in cases where, for example, there are concerns about the safety of the child and/or the parent; for example, where there's a history of domestic violence, where the non-custodial parent has a drug or alcohol problem or a psychiatric disability, where there are allegations or a history of sexual abuse or sexual offences, where there has been a lengthy disruption in the relationship between the parent and child, or where there's a risk of abduction.

Supervised exchanges or transfers might be appropriate in cases where, for example, there's an unresolved

conflict between the parents, where there's a need to determine if a parent is under the influence of drugs or alcohol, or where there is a concern about the safety of the custodial parent during exchanges.

Centre staff have a variety of academic backgrounds. Their skills and experience are taken heavily into account. All staff and volunteers are required to do job shadowing before providing service. They are trained to observe visits, to complete notes of factual observations of the parent-child interaction, and how and when to intervene if there is a safety issue.

The program requires that a minimum of two trained personnel be on-site at all times during visits and exchanges. Volunteers are not left on their own to deal with families, high-risk or otherwise. Safety precautions used by the centres, such as staggered arrival times, no contact between the parties, prohibition of cameras, cellphones and recording devices, children always being in sight and hearing of staff, including during washroom visits, and extensive, separate intake interviews, apply to all families regardless of the reason for referral.

Ministry program staff support the centres with regular training and clinical support. The ministry develops and updates program policies and procedures with the centres, including policies and procedures for working with families where domestic violence is an issue. There are peer review and mentoring processes in place for service improvement, and ministry staff review site locations regularly for safety and child focus. Thank you.

The Vice-Chair: Thank you. If there is no further deputation, we have about 21 minutes left. Each party will get seven minutes, and I'll start with Mr. Jackson.

Mr. Jackson: First of all, thank you for being here and thank you for being present for the hearings when they began this morning.

Your presentation was to do with that component of supervised access which is managed and mandated and funded by the office of the Attorney General. We also have the stream of supervised access provided by children's aid. Andrew McNaught has done a very good report for the committee members so that we can understand the difference. However, if we listened very carefully to the four presentations this morning, they struggled and, in one case, we weren't sure which kind of supervised access was being implemented at that time.

So my question to you is, having listened to the deputants, can you indicate to us, in your opinion, why in any of those cases there was not court-based Attorney General-supervised access but in fact the less predictable, if I can put a value on it, CAS-sponsored supervised access?

Ms. Marie Irvine: My understanding from some of the presentations this morning was that a few of the participants had actually gone through MAG's supervised access program. I believe Ms. Craven was using it in terms of supervised exchanges in terms of dropping off her son. I believe that it was Witness X who was talking about going to a supervised program. The difference tends to stem from, if it's a parent situation—that they

are separating or divorcing and one of the parents makes an application for access to the court—the court can order, under the Children's Law Reform Act, that access be supervised. In those situations it could either be supervised by MAG's supervised access program, by a private service provider or by a third party such as a friend or clergy member or family member.

Mr. Jackson: You mentioned the Ministry of the Attorney General's children's lawyer, the Office of the Children's Lawyer. We've had deputations today that talk about the inconsistencies in that office and/or the failure to engage that office by legal counsel. Is there anything you can share with this committee about any of the current challenges accessing the children's lawyer? If we were to put ourselves in the shoes of the four women this morning, they were unable to navigate through a system that didn't take seriously their concerns about their child's safety. That safety should somehow be better protected through the court system and, by extension, through supervised access.

So I'm asking you a general question about the Office of the Children's Lawyer and their involvement in access issues. I have to tell you that one of the deputants who left was seeking my advice, and she has not been able to secure any access to the children's lawyer in order to assist her. I was encouraging her to do that, although—again, I sound terribly subjective, but I've had a lot of cases where that did not work well. That doesn't mean there aren't cases that work well; I'm saying that I've had mostly the bad ones come to my attention, unfortunately. Is there anything you can share with us about the relationship between the Office of the Children's Lawyer and MAG's process for supervised access, because it seems that women who are in a violent relationship and have separated—we heard deputation that their concerns were legitimate: There was no way to get anyone independently to come in and assist, to do assessments on the perpetrator or to do assessments on—I'll just tell you the worst case I'm currently working with, in Hamilton.

A six-year-old girl had her jaw broken. When she came out of the hospital, she was told she was going back to her father, and she had a heart attack in the car on the way to being sent back to her father. I'm worried that there's no one in the system who's catching these danger signs for children. We heard Annette Sackrider-Miller: That was her plea, that no one would listen. Clearly, situations with her eight-year-old son, the police ripping him away from a building to deliver him—who steps in to help this child? That's why I'm hoping you're going to say that that is an appropriate role for the Office of the Children's Lawyer. Any one of you.

Ms. Andrea Strom: I'm sorry that we don't have representation here. As you I'm sure can appreciate, we have a very large ministry, with many programs, so there's nobody here who can deal with that question specifically right now. But we'd be happy to take that back and report back.

Mr. Jackson: Okay. And there's no one here from the Office for Victims of Crime or whatever we've reconstituted it? Okay.

Finally, does the Attorney General's office currently have any difficulty upholding the elements of the Victims' Bill of Rights, 1995, and the amendment act in terms of providing victims, as defined by that good legislation, as being eligible for the minister to approve funding so that they can have standing at a coroner's inquest and have those costs, at least in part, considered?
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Ms. Irvine: That's, in part, a policy question which I'm not sure how well I'm equipped to answer. The victims' justice fund is a special-purpose fund, and spending from the fund is determined by government policy. The fund is accumulated through victim fine surcharges. From a policy perspective, the concern is that if we start to legislate where funding is provided from the victims' justice fund, it may impair a government of the day's ability to determine which victims' services should be provided. The concern is that victims' services could change over time in terms of what is considered more of a pressing issue. There is some concern with impairing future governments' ability to allocate money from the victim's justice fund.

Mr. Jackson: Can I ask you a quick question, then? I wrote the policy guidelines for the fund when I first found out about them in the United States 20 years ago. I thought it was a hell of a good idea then. Unfortunately, it didn't come to life until the government was committed to it.

At this point, how can you suggest that it impedes a government if the legislation—even in this bill—says it's solely at the provision of the minister and their discretion? Or is it the fact that we don't want to put a Minister of the Attorney General in the uncomfortable position of saying, "You know what? You're not getting any funding"? Mr. Muise eloquently put the case. I've met families who have had to have garage sales in order to pay for the burial of their child; it's that bad at times. At some point, this at-one-time \$80-million fund has to find its way into some programs that victims actually can access.

I agree that there are good things being done helping the police go after pedophiles, but that's not what the victims' fund was originally constructed to do. I hope I'm not getting a policy signal that the Attorney General won't be supporting this section, because it gives him the full authority—it simply says that a victim in this province has the right to turn to its government and say, "I can't have standing at a coroner's inquest and I certainly can't have legal counsel there to assist me in the event that"—and as you well know, there could be civil litigation that flows later in a victim situation, and they need legal counsel in order to be effective. We don't want to have garage sales in order for people to have standing at a coroner's inquest.

Again, it's a policy response. I hope to God you're not speaking for the Attorney General on that point. If not this, what?

Thank you, Mr. Chairman.

The Vice-Chair: Ms. Horwath.

Ms. Horwath: I wanted to ask for a little bit of clarification from your presentation, if you don't mind.

At the beginning portion of your remarks, you were talking about the role that the staff of the supervised access centres have in working with families and their lawyers and the justice system to work out arrangements and changes to supervision. Then at the end of your presentation you said that the staff have all kinds of—not at the very end, but nearer to the end—different types of responsibilities and training. You were talking a little bit about some of the accountability issues, but said that they don't make recommendations.

Can you tell me exactly what kinds of recommendations and communications that staff of your supervised access programs are able to provide and are asked to provide?

Ms. Newman: Families come to supervised access with orders from the court for their access to be supervised, and the terms of that supervision and the access should be included in the order. Our staff don't make decisions about whether the access should be fully supervised or whether it should be exchanges, or whether it should continue or whether it should stop. We don't have a deadline for terminating service with people. Parents can also come with agreements that they make as well, if they don't have an order, although we prefer them to come with an order. They can agree to have exchanges if they're having conflict so that the children aren't caught in the middle. But we do not make recommendations or assess the ongoing relationship that a child should have with their parents because supervised access is only a small picture of the relationship and we can't predict from people's behaviour and what happens at the centres as to what will happen if they're not using our service. So we don't make those recommendations or give opinions. That's why we take notes. We make notes of the observations and we provide those notes on request to others who have a broader perspective who may be doing an assessment or to people to use as evidence in court. But they are what they are: They're factual observations; they're not recommendations or opinions. We don't give those.

Ms. Horwath: Would, for example, one parent who has concerns of behaviours that have been observed by them and perhaps by the staff be able to request notes or the log of observations?

Ms. Newman: Yes.

Ms. Horwath: Either parent could?

Ms. Newman: Either parent can request the notes and they're provided to both parties—or, if they're represented by counsel, to their lawyers—simultaneously.

Ms. Horwath: So if one party requests, both parties automatically receive.

Ms. Newman: Yes, we do that. That's the practice. There was something else that you said originally and I was going to—as you started that question it just sort of went out of my head, about the notes.

We also are required, as every citizen is, to report to the children's aid society. So we don't make judgments

about whether or not we should or we shouldn't. Staff are instructed to report to the children's aid and let the children's aid make a decision as to whether or not an investigation should occur.

Mr. Jackson: Do they ever ask if the children's lawyer can be involved?

Ms. Newman: We can't ask for the children's lawyer to be involved, because they're only involved by order of the court. So it's not something that we have any jurisdiction over.

Ms. Horwath: You had said 99.9% of supervised visits and exchanges go without critical incidents being reported.

Ms. Newman: Yes.

Ms. Horwath: When a critical incident occurs, what's the procedure?

Ms. Newman: Centres are required to have a written process for dealing with a variety of different types of incidents. They do have to report them to the ministry and we do follow up with them about what the consequences are of critical incidents. Critical incidents, strangely enough, tend to be—critical incidents for us are reporting if a third party has to become involved, like the police or the children's aid, or if there is some type of accident that occurs on-site, like a child falling and having to go to hospital or something like that. Most of our critical incidents are us reporting something to the children's aid society that hasn't happened during the visit but that may have happened in the custodial parent's home and the child is reporting it to us and then we report it to CAS, or something that's happened that we're hearing about. So we're obligated to report that.

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Ms. Horwath: I have just one last question about the staffing of these centres. You said that there's required training, minimum standards. Can you lay that out for me a little bit? What is the required training and minimum standards? We heard one deputant this morning talk about a total lack of life experience and how difficult it was for her to deal with some of the accusations that came from someone. I don't think it was your program, actually; I think it was a CAS worker.

Ms. Newman: If it was a CAS program, I really can't comment on the CAS.

Ms. Horwath: I'm not asking that; I'm asking about your program.

Ms. Newman: For our programs, we have best practices for both training and policies and procedures. The mandatory requirements for service providers are in our service agreement. They have to do with the fact that they have to provide training to staff and volunteers, and supervision to staff and volunteers.

Their skills and knowledge: Coordinators need to be knowledgeable about the effects of separation and divorce on children and families, substance abuse, domestic violence, child abuse reporting, child development—a wide range of topics.

Ms. Horwath: Those are the coordinators, though, not necessarily every—

Ms. Newman: Actually, we're just completing a survey of all of our providers as to what training they're providing, both mandatory and optional, so that we can help them to create some consistent training materials that they can all use. But they are all trained in how to conduct observations, how to take observation notes, and they all do job-shadowing so that they can be knowledgeable before they begin providing service and monitoring visits.

The Vice-Chair: Thank you. Members from the government side.

Mr. Levac: Thank you, Marie, Judy and Andrea. Listening to what the questions are and the discussion that's going on convinces me even more, when I listened to the four deputants talk about their stories and the snapshot they've given us, that there's layer after layer after layer. It's like an onion: You need to keep pulling it back to find out, because we've had references to Family Court, criminal court, CAS, victims' services. There's a myriad of things that seem to be bumping into each other, and I want to be specific about the bill, quite frankly. We've got a situation where we want to try to stop these things from happening. I did not want to talk about anyone not trying to fix this problem; I want to talk about what is the best practice.

I've asked a couple of people as to whether or not the bill will be successful in achieving its goal, and I need some information about that. I want to talk about the coroner here, and inside of that the question lies. In one of the deputations it became quite clear that there are slight differences. Although Mr. Jackson has made comment about this, and I agree with him, there seem to be themes coming through and weaving in and out of all of these cases. There are some differences. Inside of those differences, in Bill 89 will we cover off those concerns that are being raised by the families, by the incidents, so that we can assure ourselves that we're covering the widest swath we can to prevent this from happening again, such as any one of those cases? In the wording of this bill, is there something happening that we can make sure we cover off, getting this covered, getting it affected in a way that we don't see this happening again—possibly happening again; we cannot predict and stop this from happening. We've got to get some answers for these people, specific to the coroner.

Ms. Irvine: I can't really speak specifically to the coroner because I'm not from the Ministry of Community Safety and Correctional Services.

In terms of your question about whether the bill will be doing everything that we hope it can achieve, I'd just like to flag for the committee that there are two streams of supervised access. This may have come out of our discussions. There's the stream that occurs under the Children's Law Reform Act where parents are separating and courts usually order access and custody under either the Children's Law Reform Act, which is a provincial statute, or under the federal Divorce Act. The second stream is where the children's aid society is involved and where they bring an application for access under the

Child and Family Services Act. As I interpret the bill, it deals with the Child and Family Services Act types of access. It doesn't deal with access to—

Mr. Levac: It's not the access I'm talking about; I'm talking about the inquest.

Ms. Irvine: The inquest, I'm not really equipped to talk about. Sorry.

Mr. Levac: Okay. I'll save that for another day.

The Vice-Chair: Ms. Sandals.

Mrs. Sandals: Can I take another run at the question that I think Dave is asking but maybe in a slightly different way? As I listened to the deputants this morning, I was hearing different ways, which you've just confirmed, of arriving at access orders, either supervised or unsupervised. As I read the bill, it looks like the bill is setting us on a track that, where children's aid is involved, that would be covered, but if the criminal courts are the route for getting the access order, that isn't necessarily covered. I'm becoming confused as to which access orders would be covered in terms of getting access to the coroner. You folks understand access orders. I don't think Dave is asking so much, "What's the coroner going to do?" as this whole route of how we are getting to the coroner.

The Vice-Chair: Mr. Jackson would like to make a comment.

Mr. Jackson: Mrs. Sandals, I'm not interrupting, but as the author of the bill, my bill doesn't distinguish between the two, so they are covered, if that's of any help to you. I'm saying any child who dies at the hand of a parent or a family member, where there is any degree of supervised access order in place—it can be from the CAS, which goes before a judge and has the order in place, or something that's initiated by MAG through mediation in a marriage situation where separation and custody issues are dealt with. It covers both because they're both supervised access. So it's not the one or the other, or one is more significant or has a greater impact.

If I can explain why I wrote it that way, they exist because there is some concern that there may be some risk associated with the parent having unsupervised access. That's all I'm flagging. Where it existed and a child then dies, then there should be an automatic coroner's inquest. I'm not asking for an automatic coroner's inquest every time a child dies in the custody of a parent when there's a separation or a separation agreement. It's only when the courts had within their hands the ability to listen to evidence that may have made the child more safe and it may have let that slip through their hands. That's what I'm trying to achieve here.

We can't have hundreds of coroner's inquests. We're trying to narrow it down to find out what happened that went wrong inside our court system, with the CAS, with the Office of the Children's Lawyer or whomever. We'll start to see themes and inconsistencies and then we as legislators can react to it. I hope that's helpful.

Mrs. Sandals: Yes. I must admit that I'm still lost in the details of what's in and what's out here. When I look at the bill I think I'm seeing the court changing an order,

yet when I hear the description from some of the deputants, the original order says step one is supervised and then some sort of anger management takes place and it automatically becomes unsupervised. So it isn't that there was a change in the court order—

Mr. Jackson: Right. It's just that it existed at one time.

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Mrs. Sandals: So that's what I'm not clear is actually covered in the language of the bill. That's what I want to be certain of, because the deputants are describing very specific situations which have a variety of legal twists. I think it's important that we make sure that all that variety of legal twists, which seem to be—although there are conceptual themes, the legal route by which they got there seems to vary from case to case. We want to make sure that the conceptual threads are tied together, even though the legal details are different. We probably need some more advice from lawyers before we finish on all this.

Mr. Jackson: But it's clear that at any point there was some consideration of supervised access—it could have been for a brief time. In the case of Luke, who died in Oshawa, he died with the first visit when the supervised access was removed. On his first unsupervised access, his father murdered him. When I drafted the bill, it didn't matter if the child was now unsupervised. The risk that the court thought was there still probably exists. Mostly, these children are dying after the supervised period is over. I hope that's helpful to you.

Mrs. Sandals: Yes, and that's what we need to make sure we're capturing.

Mr. Jackson: But I don't want to get into the long verbiage of "under these eight circumstances." I've narrowed it to just say, "If a child has been the subject of an access order or a supervised access order."

The Vice-Chair: Thank you, Mr. Jackson. Members, I don't want to have a discussion, and I appreciate that Mr. Jackson is trying to help in answering that question. I also note that Mr. Craiton would like to speak, but before that, I want to ask ministry staff if they have any further comments to Ms. Sandals's question.

If not, then Mr. Craiton.

Mr. Kim Craiton (Niagara Falls): I do have a couple of questions on this supervised access program, so help me out. You follow whatever the court order is to—I guess you're like a transfer station, basically, between the two parties, and you act as a third party for supervised access. That's how this thing works.

One of the presenters, it seemed to me when I listened, also had outside of that a criminal case going on where she was being abused, and that was going through the courts. So I was trying to understand. With your program, if outside of that there's some criminal activity—say, the husband is being charged with abuse—is that not something that you look at, even though you have a court order that says you're supposed to allow approved supervised access? The reason I'm asking is because, when I was listening to the women who were

speaking, I got the impression from them that it was like the lesser of two evils. They had to go to supervised access or else the other option was to go through that custody battle, and they decided, because of some legal advice, not to go through a custody battle. They just signed some papers to get supervised access. Do you look at anything else, or do you just say, "Whatever the court order says, we're just going to follow it," even though there could be some other charges out there against the husband?

Ms. Newman: During the intake process, there's a separate intake interview with each party. Our centres do look at a variety of different things. They have to have the court order that says that access is to be supervised and how it's to be supervised. They also may get permission from the parties to get in touch with the police, probation officers, counsellors, other people who might be relevant. Supervised access centres do have the ability to refuse to provide service, but not on the condition that we're making a judgment about whether a judge has been right or wrong in ordering access between a parent and a child, but because our centre feels that they cannot safely provide that service within the context of the service that we provide.

Mr. Craitor: All right. And the last question I had was—

The Vice-Chair: Members, we're really running over time, so please ask your question quickly.

Mr. Craitor: Give me a chance.

Critical circumstances: The child says, "I don't want to see my father," and I've heard that said by a couple of the ladies who spoke. If that's something you hear, is that a critical circumstance?

Ms. Newman: No, that doesn't necessarily create a critical incident. We sometimes have children who refuse to or who say that they don't want to visit. There are a variety of reasons why children may say that they don't want to spend time with the other parent. I really can't make guesses about the specific circumstances of the people who were here. We can suspend service if a child is extremely upset and is refusing to go for a visit, but we can't change an order. It would be up to the parent to go back to court to try to get that order changed.

Mr. Craitor: Thank you.

The Vice-Chair: Thank you, ministry staff, for your deputation and answering questions.

Ladies and gentlemen, the next deputant has agreed to come forward on an anonymous basis. As a reminder to the press, although I don't see any press member here, no photographs can be taken of this deputant.

I don't see anyone coming forward.

Mr. Jackson:

Mr. Jackson: Mr. Chairman, I do recognize that the Auditors, the Canadian Family Watchdog and Anne Marsden are present. I believe she's accompanied by several people who have to commute back. If the Ministry of Children and Youth Services are ready, we could proceed with them, but if we were to allow the Auditors their 20 minutes, it would allow them to get back on the road at a reasonable time.

The Vice-Chair: The Ministry of Children and Youth Services' staff are scheduled to speak at 4. I don't know if they are here yet.

Mr. Jackson: It is 4.

The Vice-Chair: It is 4? My clock says 3:58.

Mr. Jackson: Oh, that's okay. It was just a suggestion to facilitate members of the public who commute, rather than staff, who I'm sure aren't punching out until after 5 or later tonight. It's fine. I was just trying to be helpful to the deputants. They're going to have to sit in traffic for several hours. I know: I've been doing it for 22 years. It is not fun.

The Vice-Chair: Is this agreeable to members of the committee, to allow this group to speak first?

Mr. Levac: Sure.

Ms. Horwath: Yes.

THE AUDITORS, THE CANADIAN FAMILY WATCHDOG

The Vice-Chair: Okay. I'm going to invite the Auditors, the Canadian Family Watchdog group, to come forward. You will have up to 30 minutes, but it would be appreciated if you can spend 20 minutes on your deputation, leaving 10 minutes for members to ask questions or give comments. This is Anne Marsden. Welcome.

Ms. Anne Marsden: Thank you. First of all, I'd like to express my appreciation for those of you who believe it's necessary, when considering a bill like this, to go out to the people who have the experience that people who sit in ivory towers don't always have.

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As a way of introduction to let you know about my credentials and why I believe that you should be listening to me, I'd just like to give you some of my background. I've been involved in advocating for the best interests, protection and well-being of children in several Ontario jurisdictions since 1990. My advocacy has taken the form of auditing of child protection case court files and acting as a friend of the court and agent in several jurisdictions. I was very interested in a lot of the questions, and the obvious things that come out is you and other people don't often get an opportunity to actually see what is going on in the court that shouldn't be going on in the court. That's my role and that's what I do. I audit it and then I bring it to the attention of people when it's affecting the best interests and well-being of our children.

The organization that I co-founded—and I'm now the audit manager—is the Canadian Family Watchdog and its predecessors. We've been in existence since 1990. We do not accept donations. We do not charge for any of our services regardless of the financial status of those we serve, whether it be a government with its unlimited resources, whether it be a millionaire whom we've provided service for, or if it's a homeless person or whatever. All our funds come from my husband's paycheque, for which he goes out to work five days a week. He works very hard and he funds all the court, all our audits and everything else. So that's the nature of our work.

I've audited several cases—I would say at least 20—where we were able to impact on the best interests, protection and well-being of children because the court agreed with us that the orders that we were seeking were in fact in the best interests of the child as opposed to the order that was being sought by the children's aid society.

Some of the cases have been in Halton, some of them have been in Durham, some of them have been in Toronto and probably one of the most famous of them, which made the national headlines in the *Globe and Mail*, was when a SWAT team was present on three occasions in the Halton Family Court before I became involved in the situation. This was a Muslim family. They had walked into court and found a fully armed SWAT team in Milton and Burlington family court. When I heard about it and was asked to help, immediately the SWAT team was disbanded and the girl was immediately returned home after she had been able to explain to the court that she came from a family who loved her unconditionally, and while she'd been in the foster home that she'd run away from, she'd been sexually assaulted.

I don't understand how these situations come to this degree of complexity, because by the time I go over the court files, I find it has either been—this particular one with the SWAT team was all over a figure of speech. The people knew it and yet they were putting all those resources into protecting everybody and their aunt with a fully armed SWAT team and the child, who is the paramount objective of the Child and Family Services Act, still hasn't been protected; nor have the ones who followed her from that sexual assault, which she claims took place by a CAS worker who's still doing the same job. So I have a little bit of concern that somewhere our priorities are always in the wrong place.

I heard some questions posed while I sat there, and one of the questions was, are we covering off what we need to with Bill 89? I can tell you no, you're not. I can tell you from my audits that the Child and Family Services Act is very good at protecting our children. The problem is that nobody is abiding by it. All the court files that I have audited show a deliberate ignoring of our law. For example, the legislation states that there has to be a child protection hearing within 90 days of an apprehension. In the audit I'm presently working on, which has been submitted to the children's minister, the child has been apprehended since December 5, 2002, and there still has not been a protection hearing. There's supposed to be a temporary care hearing within 25 days of apprehension. In this particular case there has not yet been a temporary care hearing. There are orders which say, "On consent," but our audit shows there was no consent other than the lawyers in question who decided they would consent. So what we have is legislation that has been ignored, legislation whose paramount objective is the best interests, protection and well-being of our children.

We talk about access orders. Presently, one of the audits I'm doing in Brantford is for a baby that was born on July 7 this year and was apprehended, I believe, outside the rule of law. That's what my audit shows. There

was an access order made giving the mother general and liberal access to maintain a healthy attachment to her child while this was sorted out before the courts. No other access order was issued. The father has not been allowed to access the child, the grandmother has not been allowed to access the child and the sibling has not been allowed to access the child. However, the supervised access centre, on the authority of the Brantford children's aid society, has given unlimited, unsupervised access to someone who isn't even related to the child. She takes the child home, there's nobody around there, and this person has a very, very serious emotional problem at the moment. You see, she lost her baby, so she's trying to use this baby to fulfill what she has lost. This is a very serious matter.

We've taken it before the courts. The CAS stepped in and the motion wasn't heard, because they put in wrong information, because they don't want this position to be exposed in the court. So we don't know what the truth is when access orders are made. There are a lot of things said in which, our audits have shown, there isn't one word of truth, and when you don't actually have a trial, which over and over again is what we've found, that the legislation is not complied with, what's the point?

I heard Mr. Jackson, my own MPP, bring up the issue of children's lawyers. Children's lawyers are very involved in the problem, very much a part of the problem. We had a case in the Durham jurisdiction where a child was being sexually assaulted. She had been a crown ward for six years. When I did the audit, there was no reason that that child should even have been in care, never mind being a crown ward for six years. We put her in a position where she was sexually assaulted in a foster home.

I received a call from this young girl asking me to help her, asking me to get her out of the children's aid and back to her parents. I asked her if she had a children's lawyer. She said yes and gave me the name. So I called the children's lawyer, put her in touch with her, told her what the situation was, and the children's lawyer refused to take the matter before the courts as a status review, which your legislation gave the right to. I had to pull all my resources together, drive up and down between Cobourg—and I don't like driving to Toronto, never mind Cobourg—and eventually, we got that child released back to her parents. I happened to switch on CBC the other night, and there was this beautiful young lady—the sun seemed to shine out of her—being interviewed. It was that young girl. But if I had not responded to that cry for help, if I'd acted like the children's lawyer acted, I wonder if she'd even be alive today.

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What I'm saying, or what I'm trying to say—I don't know whether I'm expressing myself rightly—is you can have all the legislation in the world, you can have all the bills in the world, but until you people decide you're going to take your responsibilities and act on evidence that our legislation is being ignored to the detriment of our children and our elderly and everything else, the most

vulnerable—I have submitted audits and evidence going back to before Tsubouchi's time, so you know how many children's ministers we've had, the last one being—I can never pronounce it—Bountrogianni and the present one. I have provided them with evidence that they should, at the very least, have a section 67 investigation, which is available to the minister. André Marin is saying right now there's not enough review. The executive director of Hamilton CAS, on a program with Ms. Horwath, said, "Oh, we're overregulated." Yes, they're overregulated. You know why? You're always overregulated if you don't take advantage of what is there to protect the most vulnerable in our society.

This bill is as useless as all the ones that have gone before them until the children's minister accepts her responsibility and takes the evidence that's presented to her by an impartial person who has credibility. I do have credibility in this area. I've been invited to speak at the ninth international conference of the International Center for the Study of Psychiatry and Psychology in Washington DC, to an audience of lawyers, psychiatrists and psychologists who are going to pay to hear me present. One of those issues is around how Ontario deals with the best interests, protection and well-being of its most vulnerable, or should I say, does not deal with it.

I am very concerned that I have been speaking into a vacuum over the last 15 years. My heart is broken—it's broken many times over—for what I see and where I see our child protections going. It's more than \$1.2 billion that goes to the children's aid society; it's the billions that go into our court system, our police, our psychiatrists, our psychologists and all of those. All of it is inappropriately spent when it's spent outside the rule of law, and it is spent outside the rule of law in the 20 cases that I've looked at where the law has not been properly upheld.

Now then, one of the tools which I have used, one of the encouragements I have used was a ministry document put together in 1985. It says, "Whether children are living with their parents or with others in care, they have the right to expect that their safety will be ensured. While in either situation the parents have the moral and legal responsibility to protect the child's interests and rights, the children in care are unique in that they may have limited access to their parents."

I know we're not just talking about children in care; we're more talking about people who are outside care. However, all parents have a moral and legal responsibility to protect their children. But the number of parents whom I have tried to assist to exercise those legal rights are met with disdain: disdain by our children's minister, disdain by our politicians—MPP Dave Levac has turned them away left, right and centre—and disdain by our police, who force their way into a Brantford home and threaten a young mother with arrest if she does not hand her child over to the CAS, even though she has a court order saying she should be in her care and there's no other order that they have. When finally it gets before the court and I'm able to produce information, the judge agrees with me and sends the child straight home. Then

we get a good lawyer, Ian Mang of Toronto, involved, and the case is closed, but there has been no accountability for the trauma that young three-year-old has been through. She's had to move out of the province to get away from the "bad ladies" and the police, and she really believes her mother gives her away to strangers.

I've been to the Brantford chief of police. I've been to the chairman of the board. I went to the Ontario Civilian Commission on Police Services, and nobody will hold those police officers accountable for what they did, which is, they took a three-year-old child out of the supervision of a parent without lawful justification. Check your Criminal Code. That is the Criminal Code offence of abduction, and it's happening over and over again. And when we go to the people to protect the children, to allow parents to protect their children, we're turned away.

I have two letters here. One is for the honourable children's minister and one is for André Marin. I'm going to be giving them to MPP Andrea Horwath, and ask that they be personally delivered to those two people. I'm asking for a section 67 investigation into these circumstances that see children not protected as our legislation has said they should be.

I will entertain any questions that you have of me. I just hope that this time, what I brought forward is listened to and we can start getting access, whatever it is that's causing these problems, back on track.

The Vice-Chair: Thank you, Ms. Marsden. Normally, deputants would file documents with the committee, but you have indicated that you would like to hand these to MPP Horwath. I don't know if she is willing to accept them.

Ms. Marsden: This is a personal delivery I'm asking you to take. I've tried faxing; I've tried sending them special delivery; I've tried everything else. But I believe that if I hand them to Andrea Horwath, MPP—who, by the way, sat here only because she beat me out at a nomination meeting—I'm sure that she will deliver these, ensure they are delivered, and I can be assured they will get the attention that they are supposed to get.

Ms. Horwath: I'll take them, Mr. Chair.

The Vice-Chair: Thank you, Ms. Horwath. Now, members, we have about 11 minutes left, so I will allocate four minutes to each party, and I will start with Ms. Horwath.

Ms. Horwath: Anne, I wanted to ask you about the comments you made about the children's lawyer failing children. Can you, maybe not with a specific case, describe where you see the pressure points of that failure, where the system is failing in regard specifically to the children's lawyer?

Ms. Marsden: From my perspective, I've always found, from the audits that I've done, that there's an incestuous relationship between the children's lawyer and the children's aid society. Whatever the children's aid society wants, the children's lawyer gives.

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We pay for children's lawyers to represent our children to ensure that the legislation is followed and

they're properly protected, as people, in their wisdom, have set out in legislation and bills.

In the particular case where I said that after 90 days you're supposed to have a protection hearing, and it didn't happen in three and a half years, the children's lawyer was on the case. The children's lawyer knows it; I'm bringing it to her attention. I'm saying she has a conflict of interest for now representing the sibling in this matter—no response. I called Clare Burns, the children's lawyer, and brought this information to her attention and asked her to respond—nothing.

The children's lawyer has one purpose, and that's to properly represent those issues before the court that impact the best interests, protection and well-being of a child. I would believe that following the legislation, making sure the legislative process is followed, is something which a children's lawyer should uphold. I really believe they should be disbarred if they're not doing that.

Ms. Horwath: You've obviously been aware of some of the work that I'm trying to do to get Ombudsman oversight over children's aid societies, mostly because of these systemic problems that seem to keep coming up, certainly not in every single case, but in the cases that tend to be the troublesome ones and the ones that I'm sure you and others work on. There seem to be system problems that go without being fixed. Currently, the government has a different idea of how they're going to have accountability within the system of child protection. Do you know what the government's solution has been in terms of the direction they're going with children's aid societies?

Ms. Marsden: All I could say is that minister after minister after governing party after governing party has ignored what is happening and the need for review. A section 67 review is there. It's a means for investigating concerns—never used. I've gone to the court and tried to get the children's minister to use that. I'm not really sure that the Ombudsman's office can do it either. I don't think they can delve deeply enough into the court, but at least it would be better than it is now, because our children's minister, our politicians, are not responding. Our child protection dollars are being spent outside the rule of law and for criminal purposes.

The Vice-Chair: We'll turn to members on the government side. Mr. Levac.

Mr. Levac: An opinion has been expressed that I treat people with disdain, and I reject that. I want to make it perfectly clear. I was an educator for 25 years and an MPP since 1999. I do not treat people with disdain, and I want to make sure that's clear for the record. However, I will suggest to you that there have been differences of opinion as to how one proceeds with trying to find the right answer to serving the people and making sure that children are safe. I'll just leave it at that.

Ms. Marsden: Am I allowed to respond?

The Vice-Chair: He did not ask for a response, but if you like, you can respond briefly.

Ms. Marsden: I always steer the parents to their MPP. This was a very, very serious issue that had happened in Brantford. This parent went and was turned away. She's still waiting. She has had to take her child out of the province. She's still waiting for Mr. Levac to help find some means of putting right the situation which saw her child dragged out of her home, put in the police car and driven away, with absolutely no lawful reason or justification—and the court agreed and returned her immediately.

The Vice-Chair: Are there any further comments from the government side? Mr. Ramal.

Mr. Khalil Ramal (London-Fanshawe): Thank you very much for your presentation. It's a very complex issue and you address it very well.

You mentioned that Bill 89 is not going to change the whole atmosphere. It's going to be one of the additional sections to the many different bills in the government.

You mentioned section 67, and you said that regulations and rules are already in place but are not being implemented. What do you mean about section 67 needing to be changed or to be strengthened?

Ms. Marsden: No, there's no need to change it or strengthen it; it just needs to be acted on by the children's minister. Section 67, the Child and Family Services Act, allows the minister—it says "may": She "may" appoint a judge to investigate the circumstances of any child in care.

We have taken to her, over and over again, cases where they really should be investigated, not for that child but for all the thousands of children who follow down the same path.

When I said that Bill 89 won't fix the problems, what I'm saying is, until the legislation is enforced, no bill—the Child and Family Services Act is useless if the protection hearing, all those things which are set out to protect the best interests and well-being of a child, are ignored.

If children are taken from their home, from their parents, and placed in a situation of sexual assault when they were in a perfectly normal, loving home to start with, and now they're in a position where they're being sexually assaulted—as happened in Halton and has happened in Durham and in Toronto, and it has happened over and over and over and over again—what's the point of having legislation? Section 67 is a very valuable tool that could have been used by our minister and is not being used.

I hope I answered your question, sir.

Mr. Ramal: Thank you very much for your answer.

The Vice-Chair: Mr. Jackson.

Mr. Jackson: Anne, I feel the same way about the section in the Coroners Act that gives the Minister of Community Safety and Correctional Services the right to call coroner's inquests. I understand why he doesn't wish to do that, but that's essentially why we're calling for this legislation: to add one additional mandatory provision along with the three that are currently in there. I hear your point very clearly, that there is legislation that

doesn't seem to be used effectively or to the advantage of the vulnerable person.

Mr. Chairman, I have no questions but I do want to commend Ms. Marsden for her tenacity and her passion for advocacy and the work that she has done, and thank her for coming before the committee today.

Ms. Marsden: Thank you.

The Vice-Chair: Ms. Marsden, thank you for your deputation.

MINISTRY OF CHILDREN AND YOUTH SERVICES

The Vice-Chair: We have the Ministry of Children and Youth Services now. I don't know if they have arrived.

Please come forward. You have up to 30 minutes for your deputation, and if there's time left for comments or questions from the members, that would be appreciated. Please identify yourself.

Ms. Trinela Cane: Thank you very much for the opportunity to appear before the committee.

My name is Trinela Cane and I'm the assistant deputy minister with responsibility for policy development and program design in the Ministry of Children and Youth Services. I am responsible for policy with respect to child welfare and child welfare transformation as well.

I was invited here today to provide an overview from the ministry's perspective with respect to child protection supervised access matters, and how the supervised access system works with respect to child welfare. I'm very prepared to do that and very happy to answer questions as well at the end of the presentation.

Can people hear me well enough?

The Vice-Chair: Yes.

Ms. Cane: Thank you.

As has been mentioned previously, and people around the committee table are well aware, we have 53 children's aid societies across Ontario, and they're responsible for carrying out child protection services under the jurisdiction of the Child and Family Services Act within their own designated geographic areas across the province. As you will know, the Child and Family Services Act gives agencies an exclusive mandate to protect children under the age of 16 from abuse and neglect, and to investigate situations where children under the age of 16 or in the society's care or supervision may be in need of protection. In addition, they provide residential services for children who are unable to remain in their family home. They also provide counselling and support to families in order to prevent circumstances requiring child protection and entry into the child protection system. They're also responsible for the provision of adoption services in the province.

1630

Supervised access is one part of this broader spectrum of child welfare and protection services across the province, and a very important component. In terms of what supervised access is in a child welfare context, as

you know, access more generally refers to contact and visits between a designated child or children and another person. The other person could include siblings, a parent or a member of the child's extended family. In an aboriginal context, it could be a member of an Indian band or aboriginal community more generally.

Supervised access actually occurs when it's determined, most often by a court, that the child's contact with a specific person may represent a risk to that child's best interest and emotional or physical well-being. In these cases, another adult, or several adults, must be present during a specific visit to monitor the contact between the visitor and the child, and to intervene if necessary to protect the child or the child's interests. A children's aid society may also supervise access to evaluate a person's parenting capacity or the appropriateness of their relationship with the child, and to determine whether in the future that person should have unsupervised access or custody of the child or whether in fact there's information that could inform a plan of care that would govern that child into the future.

A society worker may supervise the child's care in the home of a parent, as I've indicated, or another person as part of ongoing supervision, or the child may be in the formal care of the society and reside in a foster home or a group home, as the case might be. In any of these situations, the society may also supervise the child's access. That would most often be a designated caseworker, as appropriate. In many of these cases, you will know by example from your own constituencies, a child may reside with one parent and the society may be responsible for supervising access with another parent under various circumstances.

In general terms, the children's aid society gets its authority and mandate to supervise the child's access through a court order made through the court by application, either by the society or an individual. There are various ways that court orders happen with respect to supervised access. As you may know, part III of the Child and Family Services Act permits any person, which could include a child, the child's band or other individuals, to apply to the court for access at any time during a child protection proceeding, with certain exceptions and limitations. For example, an access application can't be made when the child has been placed for adoption. That's one example of a limitation.

Societies may apply to a court for a supervised access order when they've applied for an order for a child's care or supervision—so it's in that context—because they believe the child is at risk of abuse or neglect, or otherwise at risk. They may identify that supervised access is required where there are concerns for a child's safety and well-being during contact with one or more family members.

When the society does apply for access, the society must provide notice of the application to specified parties that could include—and you have a list before you—the child, if they're age 12 or older; the child's parents; the child's caregiver; and the child's band, in the case of an aboriginal child.

When an application is made by anyone other than the society itself, that person must provide notice of the application to the society and the society is responsible for giving notice to the other parties that I have mentioned.

The court receives evidence from the applicant for the order in support of their application. Other parties may also provide responding or corroborating evidence or other information to the court. In many cases, the court will decide the issue based on written material. They may also, as you will know, hear oral evidence from various witnesses, as they see fit.

Usually, the children's aid society in most cases will provide the court with information related to and focused on the safety and well-being of the child. This information could include specific information about the child and their emotional, developmental and physical needs, and the appropriate care and requirements to meet those needs. It will provide information about the child's current relationship with the person seeking access and identify some information related to the previous history of the person or persons seeking access to the child. This could include information about the person's previous involvement with a children's aid society or the person's criminal record. The society usually provides the court with current information respecting any criminal charges or convictions related to the child or the child's parent as contemplated by Bill 89, if it is passed. This is very similar.

The court itself, then, must determine whether or not to grant the request for access in accordance with the child's best interests—the best interests being paramount—and the court can and may specify the frequency, location and level of supervision for the access. So they can actually designate terms and conditions with respect to that. If appropriate, the court can also order the society to determine the schedule and the conditions of the access. It depends on each individual situation.

It must be understood the court also has authority to change an access order if the court decides that the order is no longer in the child's best interests. Any person may make application to change a court order.

It is important to note that orders that are made with respect to a criminal proceeding, which may themselves prohibit or restrict access between a child and a specific person, must be complied with and they overrule any access order made under the Child and Family Services Act. So the Criminal Code matters would have paramountcy with respect to that area.

There are a number of arrangements that are made with respect to supervised access, and the arrangements really depend and vary according to the circumstances and needs of the child. Societies will arrange supervised access in compliance with a court order, so where terms and conditions are articulated they are to comply with the court order. Access visits may occur in the agency's office itself or in a community setting; they may take place in a home or in a family member's home, or at other specific sites that may be designated or specified by

the agency. In some cases, agencies operate their own supervised access sites, as you will know.

In terms of who provides the supervision for supervised access, that too may vary but it's generally staff from the children's aid society. Some staff who provide supervision are on contract with the agency. In addition, we have trained volunteers, and all staff involved in supervised access are trained in the issues that they may face and trained to perform the functions that they are performing. We know that in addition to volunteers, we have foster parents and grandparents who sometimes supervise the visits, and that can be determined based on the specifics of a case.

In terms of how supervised access is paid for with respect to the child protection system, children's aid societies pay for supervised access through their funding allocation for protection and children's services. It is included in their allocation. We recognize that there are often additional costs for maintaining facilities for access and providing transportation, and those are to be included in the operational budget of the agency. That is the intent and the focus. Agencies are required to provide this service.

1640

In terms of Bill 89 and what it means with respect to supervised access and the current process that we follow, section 1 of Bill 89, if passed, would introduce a new section to the Child and Family Services Act, as you're well aware. This section creates a presumption of supervised access in specified circumstances related to family violence. So when a society applies for an access order to a parent charged with or convicted of such an act of violence, either against their child or in some cases against another parent of the child, the court must make a supervised access order unless the court determines that the order itself is inappropriate.

In general, our experience is that children's aid societies currently do seek a supervised access order in cases where parents have been charged with or convicted of a criminal offence either against the child or against a parent of the child or other person. The society would normally request a supervised access order until they're satisfied that that person or that parent no longer presents a risk to the child. What section 59.2 of Bill 89 would do would be to ensure that the practices now in the field are reflected in the child protection legislation, and the ministry is very supportive of that direction.

Another component of Bill 89 that I'd like to speak to includes a provision to the Child and Family Services Act related to the duty to report a child's death. It was our feeling that the committee could benefit from some new information related to child death reporting and review procedures that are in place at the direction of the Minister of Children and Youth Services for children's aid societies across Ontario. This is a component of the child welfare transformation, and it's part of an overall plan to strengthen accountability for child welfare and, in particular in this case, child death reporting.

What we've done is worked, as part of child welfare transformation, in collaboration with the Office of the

Chief Coroner to develop what we call a joint directive on child death reporting and review. This directive came into effect on March 31, 2006. It replaces an earlier directive which didn't have as significant a level of accountability as the current directive, and it was made under section 20.1 of the Child and Family Services Act. All 53 children's aid societies are required to comply with this directive, and the ministry is monitoring their compliance. I have provided copies to the clerk of the committee of the joint directive for members' information.

The new directive sets out the procedures to be followed by children's aid societies, but not just children's aid societies alone; for the Office of the Chief Coroner and for ministry regional offices as well. The procedures themselves apply in two circumstances: when a child dies who was receiving services from a society at the time of his or her death or any time in the 12 months prior to the death. The directive supplements a new approach that the ministry has put in place early in this calendar year around serious occurrence reporting procedures, which have been strengthened and include the requirement to report to the ministry all deaths of clients—including children—who are receiving a service from the ministry. So this is a reporting requirement for all agencies providing service.

The directive that we've worked on with the Office of the Chief Coroner demonstrates what we consider to be a mutual commitment and a cross-sectoral commitment to collaboration and working together on very serious matters. The directive itself, which I'll speak to in a moment, reinforces clear roles and responsibilities for reporting a child's death in order to avoid duplication and confusion. In addition, it provides opportunity for analysis and lessons learned, as well as an annual report card, which I'll speak to in a moment.

The procedures to be followed under the new directive: When a child dies, the society must immediately notify the local coroner and the ministry. As I mentioned, it must complete a serious occurrence report that is sent to the ministry. It's also sent to the regional supervising coroner in the province of Ontario and the deputy chief coroner's office.

Within 14 days of learning of the death, the society must complete a child fatality case summary report, which is a standardized report across the province, and send that report to the ministry and the chair of the pediatric death review committee for review. As you may know, the pediatric death review committee is the committee which assists the coroner with complex medical cases, and all members are experts in pediatrics.

Within seven days of the committee receiving notice of the death of a child, the chair reviews the report provided by the agency and tells the agency whether they must conduct an internal child death review. So the decision-making with respect to whether an internal review will be undertaken is undertaken by the chair of the child death review committee.

Where the coroner directs—and the deputy chief coroner of course is the chair of this committee—the society

itself must conduct a review and complete a written report within 90 days of the coroner's direction. So this provides very prescribed timelines and expectations.

The copies of the child death review report are sent to the ministry and to the chair of the committee itself, and based on the report the Office of the Chief Coroner will determine if the committee will conduct any further review, and that's a case-by-case review based on the report that's provided.

If a review is done by the pediatric death review committee, it is done within one year of the child's death. The PDRC itself may also make recommendations and these recommendations must be followed. The report of the pediatric death review committee is sent to the society and to the ministry. The society must consider the recommendations of the committee and implement, as appropriate, and provide progress reports to the ministry. The ministry will use this information both to inform ongoing operations and agency operations in that regard but also policy and practice at a more macro-corporate level, which is a very important piece if we're looking for systemic change.

Under this directive, the Office of the Chief Coroner has lead responsibility for the analysis of a child's death and the material that comes forward, the dissemination of findings and recommendations and the production of an annual report, which will be issued publicly, jointly with the Ministry of Children and Youth Services and the coroner's office.

Bill 89, if passed, would introduce a new section that requires a person or society to report a child's death in some very specific circumstances. As you are well aware, the society or person would be required to report the death to the Minister of Children and Youth Services as the legislation is currently drafted. The Minister of Children and Youth Services would be required to report the death to the Minister of Community Safety and Correctional Services. The Minister of Community Safety and Correctional Services must then direct the coroner to hold an inquest.

Bill 89, in our view, builds very well upon our new child death reporting and review processes. It would expand the duty to report to include children who have received services of a children's aid society at any time, not just limited to the time frames I mentioned earlier, provided they meet the other requirements that are set out in the section.

The ministry supports the expanded duty to report, but would ask the committee to consider a more streamlined reporting process, more consistent perhaps with the existing joint child death reporting and review directive. We would suggest that if a death occurs in the specified circumstances that have been identified, that a person or society should report directly to the coroner. We feel that the process currently drafted in the bill is overly complex and may not be timely. That would be our advice on that matter.

I would like to thank the committee for the opportunity to present on the current approach with respect to

supervised access in child protection matters, and I'd be happy to entertain questions you may have.

The Vice-Chair: Thank you, Ms. Cane. We have 11 minutes left. I will allocate about four minutes to each party, starting with Mr. Jackson—sorry, it should be members for the government side. Mr. Levac.

Mr. Levac: Thank you, Trinela. There are two quick questions from me, and my colleagues have another one. One is, the process that you just went through, a relatively new process, indicated that the committee would make recommendations. Does it have the same authority as an inquiry would have in terms of calling witnesses and making recommendations that are to be listened to by the CASs and the ministries?

1650

Ms. Cane: My understanding is that that is subject to the discretion of the chair of the pediatric death review committee, but it doesn't, as I understand it, have the same stature as a public inquiry would.

Mr. Levac: Backing that up, if I'm not mistaken, it made it clear that it was mandatory in any child's death, or "under supervision"?

Ms. Cane: There are a number of circumstances where the coroner undertakes a child death review. Any death of a child in CAS care is subject to review by the committee. A report goes to the committee, and they make a determination as to whether internal review is required by the agency, and if so, whether they'll undertake further review at the committee level themselves.

Mr. Levac: If I heard correctly, you indicated that Bill 89 would go further.

Ms. Cane: In terms of the duty to report a death, our current requirements under our death review directive pertain to a child who is currently in children's aid society care or has been in the care of a children's aid society within the past 12 months. My understanding of this bill is that it would actually generalize to any child who has been in the care of the children's aid society and has been subject to a supervised access order.

Mr. Levac: Because we know, in some of the cases, that has not been the case. The question that I'm asking all of the people I've put this to is trying to capture as many people as possible who would not fall under some of the circumstances, and making sure that Bill 89 does that as well. Mr. Jackson made reference to a situation in his clarification that at any time there has been some kind of supervision, even an invited one—but then, once that stops, does the continuation of that rule allow the coroner to declare that as mandatory under Bill 89?

Ms. Cane: I'm not sure if I understand the questions. I'm sorry.

Mr. Levac: I'm not clear either. I have it in here, but I'm trying to get it out here.

Mr. Jackson made reference to the fact that his attempt is not to make it as broad as possible, so you don't have inquiries all over the place, but to be specific—

Mr. Jackson: Inquests.

Mr. Levac: Inquests, yes—choosing the words is important—in an inquest situation, that is under the cir-

cumstances of supervision, and that would be broad enough to include that if the supervision is even voluntary, when two people agreed to do their own supervision at an access centre, not court-ordered. Then, as long as that took place, the coroner's inquest would take place?

Ms. Cane: I guess I would ask for clarification in terms of the intent of Bill 89.

Mr. Levac: Cam, is that where I'm coming from? Just quickly.

Mr. Jackson: I would ask your question this way: There are cases where a child will die, having been the subject of an access order, where the CAS has no jurisdiction, nor has ever met the child. Correct?

Ms. Cane: That's correct.

Mr. Jackson: And so therefore my bill is written in a way that it covers all children in the province. It does embrace CASs—so for those children in care, it would speak to that—but it doesn't limit it just to CAS care; it's all children who die in the hands of a parent having had any concern about access orders.

Ms. Cane: That's why I think, Mr. Jackson, the bill is actually considerably broader than just the child protection focus. It does focus on matters of supervised access and children who have been subject to that.

Mr. Jackson: Because we have two tracks.

Ms. Cane: That's correct.

Mr. Levac: I'll pass it quickly for—

The Vice-Chair: Quickly. Ms. Sandals?

Mrs. Sandals: Yes, just a quick question, because on page 4 of your presentation, Trinela, you verge into this business about criminal proceedings. A number of the deputants talked about unsupervised access being as a result of a criminal plea bargain. So where does the authority to do that derive from? Are we now into Criminal Code matters?

Ms. Cane: I've been passed a little note here. In response to your question, I think, as I mentioned, Criminal Code matters are paramount in these cases. For example, a probation order might indicate that a specific person is not to have contact with a child or a specific person designated, even if there was a supervised access order in play through the Child and Family Services Act. The actual Criminal Code requirement and the court order in that matter would take precedence.

Mrs. Sandals: Because what we seem to have been hearing about is where there was pre-existing supervised access and then the plea bargain has turned that into unsupervised access. I'm following some of the incidents that we've heard. It's like your system is looking for assistance to children but then the criminal system is overriding your rules, but you may not be even involved with the child at all—

Ms. Cane: But it would serve to undermine the intent of the Child and Family Services Act.

Mrs. Sandals: Yes, exactly. So that's the problem we seem to be running into to some degree: the conflict between criminal proceedings, which are ordering access, and family and children's services, which—given your legislation, you're more concerned with the child.

Ms. Cane: Yes, but given the paramountcy rule, you're right that one could undermine the other.

Mrs. Sandals: But the criminal—okay. Now I at least sort of understand what's going on, whether I like it or not.

Mr. Jackson: Just to follow on Ms. Sandals' point—because that is the point—that in a criminal case the two lawyers have to be satisfied in the eyes of the judge, and the child never really gets a say in court; this is why my legislation is so broadly based, in that all children in the province would be protected.

I want to put on the record that I support the increased reporting mechanisms that the government has brought in, in the shadow of the Jeffrey Baldwin death with Toronto CAS, with the death of Jared Osidacz and with the death of the three children outside of Orléans near Ottawa, all in the month of March.

I'm concerned that we do not get bogged down in a much more bureaucratic process. Your flow chart—Hansard won't pick this up but I'm pointing to a seven-step box system, and I know Ms. Horwath will be raising the issue of, when does this process become transparent and when does this process become accountable? Why I recommend we jump in very small circumstances in this province—we're probably looking at the deaths of fewer than 10 children a year, but probably four or five children a year who die in this province under these circumstances—that they get an automatic coroner's inquest is so that all aspects are covered, but it's done in a transparent, open fashion.

A child has died; therefore, privacy issues are no longer an issue. When a person dies, their entire life history is an open book; it doesn't matter if you're an older person or a young person. My worry is that a good process of reporting and review, which I believe is still being done in-house, where the CAS is examining its conduct and its role—and again, this came out of the Jeffrey Baldwin incident, which was not Ontario's finest hour when it came to CASs and their performance of their legislated duty.

So I guess, Trinela, my question to you is, do you clearly see the distinction between Bill 89 trying to protect all children versus the circumstances under which the CAS becomes involved? I would hope that the ministry sees a value in making sure all children are protected, regardless of whether they had ever been contacted by CAS, since they can't always participate in the process which I consider the most offensive of all, and that is the mediation in custody, support and divorce when there's violence involved. At the root of this problem is when mediation occurs and then they start horse-trading, the child gets caught in the middle and CAS never gets brought in to say, "Excuse us, but we personally feel this child is at risk and something should be done about it." Not enough of that is occurring in our province.

So if I could get you to respond to that, and I thank you for your positive comments in your presentation today with respect to Bill 89.

Ms. Cane: Certainly, Mr. Jackson, I appreciate the intent to cover a broader range of children who die as part of very unfortunate circumstances in the province. While our purview is within the context of the Child and Family Services Act, I share that view and that understanding of the importance of that.

1700

In terms of the actual child death review and directive, its timing seems to coincide with the Jeffrey Baldwin case, a very unfortunate case, and it does actually, in some ways, perhaps not address the specific issues of Jeffrey's circumstances. Rather, as part of that process, we've actually implemented what we call regulation with respect to kinship care that provides additional safeguards.

But we were concerned, in terms of the child death review process, separate from any one incident, that there wasn't sufficient independence in the oversight of the work that was being done at the agency level, and many agencies themselves raised this as a concern with us as well. That's why we have paid for an analyst to be placed in the Office of the Chief Coroner to actually undertake the case analysis and preparation for the child death review committee. It's precisely why we've asked the coroner to be the arbiter in determining under what circumstances—and it's normally in cases of homicide, suicide or other suspicious deaths—an agency must perform an internal review; it's not subject to an agency's discretion or the ministry's discretion, which is an important point.

In addition, it is up to the chief coroner on the review of the internal report, where they have additional questions or they feel that the report has missed the mark, to have further undertakings with respect to that. In addition, they are able to have a full and more in-depth review of the case as they require.

I think our intention has been to promote better accountability, to provide an opportunity for more public transparency and reporting, and to put a certain amount of the decision-making in the hands of the chief coroner of Ontario, an independent overseer of these types of things.

Mr. Jackson: In order to be abundantly clear here, my question also included, Trinela, at what point does the public have access to that information? The coroner reports in general terms. I've seen hundreds of reports and I've seen his annual report. But where does the public get to look at that report? At which stage in these seven boxes will Andrea Horwath or I or the families be able to look at that report to determine the recommendations? If they just sit as recommendations, you used the phrase—Oh, Lord, where did I write it down?—talking about the important part of the process, where you can look at providing additional improvements. That's code for regulatory changes. But how do we know that as the public or how do we know that as legislators, that we would have a serious problem here if the Jeffrey Baldwin case were about to repeat itself under these protocols? When would we find that out?

Ms. Cane: I guess in attempting to respond to your question, I'm not certain in the process at what point reports are divulged. But I'd be happy to get back to the committee, if I can provide some further clarification, Mr. Jackson.

Mr. Jackson: That is my concern. I don't see in this process where the public or the family who's lost a child or I, as an advocate for child safety, can read it. If it's not transparent, it can't inspire us to do better.

Ms. Cane: And you are correct, Mr. Jackson, that the annual report would summarize the work of the committee, as you point out, and would make recommendations for a more sweeping, systemic change that the ministry and others will be beholden to, but it may not address the specific needs of a specific family, as you indicate.

The Vice-Chair: Ms. Horwath.

Ms. Horwath: Thank you, Trinela, for being here for the ministry. The first things that struck me in your remarks were the issues around protecting a child from abuse and neglect. When I think about some of the cases that we've heard about today, I particularly recall the testimony of Ms. Craven, her experience with the children's aid society and how they failed her as a parent, failed to protect her child and in fact accused her of being the abuser. How does that happen? And further to that, the remarks that were made to her by staff of a CAS indicating that her estranged partner, the father of her child, was "driving a nice car"; in other words, reducing her concerns and comments and her ability to relate her concerns about her child, pretty much ignoring those and instead turning to the abuser as someone who was more credible: How does that happen and what is in place from the ministry's perspective to prevent those kinds of situations from occurring? What kinds of requirements exist? What kind of reporting exists? What kind of checks and balances exist to prevent that kind of situation?

Ms. Cane: I wish there was an easy answer to say how that might have happened. I'm not familiar with the specific circumstances of that case, but what I can tell you is each agency is mandated, as part of its own review of cases coming forward or children and parents coming forward to ask for assistance, to use one standardized tool, a risk assessment tool called the eligibility spectrum. The eligibility spectrum identifies various risks in quite a number of dimensions, and that actually leads to the decision on the part of the worker as to whether the child is deemed to be in need of protection. As you know, that is subject to a court decision within five days as to whether the decision by the agency would be supported by the court.

That is the process agencies are to follow. Each of them uses the same tool. As part of our child welfare transformation we've actually enhanced the tool and added more instruments that allow a worker who is trained in the use of the tool. We've really reinstated a very rigorous training program for this, as the legislation is hoped to be proclaimed in November and they are to

administer this tool and the sets of supplementary tools that would allow them to delve more deeply into that matter and hopefully get to the crux of the issue. In this case that you mentioned—and as I say, I don't know the details—it sounds like there was information, potentially, that may not have been followed up on or not appropriately analyzed as part of that assessment. I think what we've tried to do is put a standardized assessment in place. Every worker will be trained in the use of the tool and every supervisor will be actively monitoring the decisions made by the individual workers.

Ms. Horwath: I appreciate that blunt response because it's important that you're aware that there is opportunity for failure of these systems. I guess that brings me back to—and I'm glad Mr. Jackson raised it, because the government side raised an issue that I was going to ask as well, which was the unbelievable situation where if a criminal proceeding results in an order that is more lax than a child and family services order, it actually supersedes, and that's got to be changed. That's absolutely frightening.

Nonetheless, the concern that I have is, as we look through the ministry's flowchart of response to concerns about transparency and review of systems, again it seems as if the process for determining what went wrong or how, perhaps, there could have been different actions taken in a situation where there has been a death of a child, it always goes back to: The society will make the initial report. But nobody is checking to make sure that even the initial report is reflective of the experience of the people involved in the situation. That's where the whole thing falls apart from my perspective, and that's at step one or two. Certainly there has to be an acknowledgement that the society doesn't operate in isolation from all of the different people and systems that affect it. Having said that, if you're going to go through a whole process of review with the steps that are indicated in the flowchart but the very beginning inputs don't include all of the appropriate information or, at least don't include all of the information that could have a bearing on what comes out at the end, then you have a failed system from the get-go.

I just want you to take that back because I think that if there's one thing that we heard today strongly, loudly and clearly, it is that these women's voices were not being heard, through the whole process of their nightmare. Whether they weren't being heard by the CAS, whether they weren't being heard by the justice system, whether they weren't being heard by the police, their voices were not being heard. Now we have a new fix to the problem, or at least we have a new system of trying to understand what the problems were, where again those voices are still not going to be heard. They'll be heard from the perspective of how the CAS saw things go down, but from what I can see anyway, there's no direct voice of these women in this flowchart. I would just hope that you can take that back. Maybe with the horrors we went through with these women this morning, we can bring back the fact that their voices need to be heard in these

processes and that the bureaucracy certainly needs to understand that that's important, and that will help us at the end of the day to come up with systems that will better protect women and children.

1710

Ms. Cane: What I can tell you in that regard is that as we obtain the advice of the deputy chief coroner, Jim Cairns, with respect to individual cases coming forward as part of the process, there is an opportunity and potentially advice that would be given by the chief coroner around the need to have an external consultant or external person or persons undertake the review, and our intention is to have an independent review as part of the process as that first step. But I can appreciate your concern that the appropriate views be taken into consideration.

The Vice-Chair: Thank you very much, Ms. Cane, for your deputation and answers.

Ms. Cane: Thank you very much. Good luck with the work.

The Vice-Chair: Members of the committee, those are all the deputations we have today. I'd like to draw your attention to the written submission provided by Margaret Patterson, who was originally scheduled to be here. She cannot make it because of health problems but has requested that her submission be read out in committee. I'm in your hands.

Mr. Jackson: I move that the matter be inserted into Hansard and we don't necessarily have to read it.

The Vice-Chair: Is this agreeable?

Mr. Levac: That's reasonable.

The Vice-Chair: Agreed.

As a reminder, the deadline for filing amendments is Thursday August 31, 2006, at 12 noon. The research officer will be preparing a summary of the testimony heard.

Mr. Andrew McNaught: I wonder if I could just get clarification on that. The evidence we heard today was largely the details of individual cases and some overviews of ministry programs. In light of that, maybe you can give me direction on what you would like in the summary. Traditionally, we would only include recommendations to amend specific provisions in the bill, and really only the last witness addressed that. I'm in your hands.

The Vice-Chair: Any comments?

Mr. Levac: We did ask at the end of each deputation to get hard copies of the full deputations. I think that would accommodate us because that's more than an overview; that's the actual words used. So I think that would accommodate at least the ones we heard. Cam, I don't know what the normal practice is, but in terms of the review it would be, as has been pointed out, that we would receive a summation spoken to the bill. Is that not what we normally do?

Mr. Jackson: Yes, a brief report on what each of the deputants had to say pertaining specifically to the bill and sections thereof.

Mr. Levac: Amendments. Yes.

Mr. Jackson: I don't think we're expecting a fulsome report, but I do believe we've asked for additional information on the role of the Office of the Children's Lawyer. We had an additional request for information. I'm trying to remember where I wrote that down. But we had two items that we were going to have follow-up: one from the Attorney General's office and I believe one from Trinela in the Ministry of Children and Youth Services. So there's that.

The Vice-Chair: Is that an agreeable arrangement?

Mr. McNaught: All I was pointing out is that really nobody addressed, with the exception of the last witness, specific provisions of the bill, so I don't know how useful it would be to summarize the details of individual cases.

Mr. Jackson: If you've got other plans, Andrew, that's fine.

Mr. McNaught: I don't have other plans.

Mr. Jackson: Well, then, I think we've given you sufficient direction. If you're asking us to say you don't have to do a report, we're not prepared to say that. Okay?

Mr. Levac: If there are materials available for what we've asked for, I think it would end up being a small two-pager.

Mr. McNaught: The ministries will be providing notes, yes.

Mr. Levac: Mr. Jackson made reference to the one request of the Office of the Child Advocate. I think that was where we went with the Attorney General. I supported that too. I recommended that we make sure that we mention that.

Mr. Jackson: Trinela was going to get back to us with respect to the reporting mechanisms with respect to the process she has described for us regarding the CAS responsibility to report and that new procedure. I want to underscore that that narrowly deals with children in the CAS's care, and I purposely didn't write the bill. So although her concerns are legit and the government is to be commended for taking the reporting one step further, it's not the issue on the table, which is very simply the mandatory access to a coroner's inquest. I cannot summarize it better than Julie Craven, who's still in the room, who said that the murderer, the father, gets an automatic one and her child won't get one unless it's made mandatory or if we can prevail upon the coroner.

I don't want us to lose sight of the fact that we're not trying to fix the supervised access issue today, or in this legislation. We believe that there should be several forums like this occurring if more children die and we don't have solutions, because we're not coming up with them today.

Our understanding is that we will have amendments. The clerk will get those to us by noon on Thursday, and then we reconvene on Friday at 10 o'clock.

The Vice-Chair: That's correct. Clause-by-clause consideration of this bill will take place on Friday, September 1, 2006, at 10 a.m.

Mr. Jackson: My final question, Mr. Chairman, would be, when might we, as committee members here today, have access to today's Hansard?

The Clerk Pro Tem (Mr. Katch Koch): It usually takes a couple of days. The House is not sitting right now, so let me—

Mr. Jackson: As a Chair myself on a committee, we generally try and encourage Hansard to see the merit in the priority of this Hansard as opposed to the other two committees that are operating this week that won't be doing clause-by-clause this week. That's my subtle way of saying please make sure that we at least have that, that the ministry, which is considering amendments to this bill, has access to that Hansard, and that we, as com-

mittee members who are trying to make this bill work, have access to that as soon as possible. That direction generally always should come from the Chair.

The Vice-Chair: Thank you, Mr. Jackson. I will do my best to make sure that it is available as soon as possible.

Mr. Levac: I'd definitely support that request.

The Vice-Chair: Any other business? If not, then the committee has adjourned until 10 a.m. on September 1, 2006.

The committee adjourned at 1718.

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Official Report of Debates (Hansard)

Thursday 31 August 2006

Journal des débats (Hansard)

Jeudi 31 août 2006

**Standing committee on
regulations and private bills**

**Comité permanent des
règlements et des projets
de loi d'intérêt privé**

Fire Protection Statute Law
Amendment Act, 2006

Loi de 2006 modifiant des lois
en ce qui a trait à la protection
contre l'incendie

Chair: Andrea Horwath
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLSCOMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ

Thursday 31 August 2006

Jeudi 31 août 2006

*The committee met at 1003 in committee room 1.*FIRE PROTECTION STATUTE LAW
AMENDMENT ACT, 2006LOI DE 2006 MODIFIANT DES LOIS
EN CE QUI A TRAIT À LA PROTECTION
CONTRE L'INCENDIE

Consideration of Bill 120, An Act to require the Building Code and the Fire Code to provide for fire detectors, interconnected fire alarms and non-combustible fire escapes / Projet de loi 120, Loi exigeant que le code du bâtiment et le code de prévention des incendies prévoient des détecteurs d'incendie, des systèmes d'alerte d'incendie interconnectés et des sorties de secours incombustibles.

The Chair (Ms. Andrea Horwath): Good morning, members, and welcome to the standing committee on regulations and private bills. I want to welcome you this morning. We're going to be getting into the clause-by-clause discussion of Michael Prue's Bill 120.

First of all, we have legislative counsel here. I know, when we went through the public hearings phase the other day, that Mr. Martiniuk had some specific questions of clarification that he wanted from legislative counsel, so if that's all right with committee members—I'm not sure, Mr. Martiniuk, if you have those questions available now.

Mr. Gerry Martiniuk (Cambridge): Yes. Is there a report that we could deal with?

The Chair: There is a report that was provided in the package that members received, but I'm not sure whether your specific question has been covered off, so we brought staff here today to be available to answer your questions.

Mr. Martiniuk: Let's just deal with the retroactivity because we were dealing with a sprinkler system, which is not before us in this particular bill, and then we were dealing with an interconnected fire alarm system. The question that did arise is that either the fire code, which I take it is a separate code from the municipal building code—do either of them have the power to provide retroactivity of installation of either a fire alarm system or a sprinkler system?

Ms. Catherine Oh: The building code does not have any ability to require retrofits of existing buildings, but the fire code does. There is a particular section of the fire code, section 9, which specifies retrofits that must be undertaken by buildings that are in existence as of a specified date.

Mr. Martiniuk: Okay. Could you cover the relationship between the two codes? Many of the presentations we received seemed to indicate that they were interconnected, and yet some dealt with them as if they were totally separate and weren't interconnected, and I got confused.

Ms. Oh: They are interconnected. The building code covers issues relating to the construction of buildings, whereas the fire code covers issues about substances within the buildings that might be flammable. It addresses other topics related to fire prevention but not specifically construction, except for section 9 that I was referring to, which talks about retrofits. That section only imposes conditions and requirements on existing buildings relating to construction. But generally speaking, all requirements about construction on new buildings are contained in the building code.

Mr. Martiniuk: Are both of these codes created and amended by a regulation?

Ms. Oh: Yes, they're both regulations.

Mr. Martiniuk: Is there any provision in any act as to who shall be consulted when making these regulations?

Ms. Oh: I'm not aware of the process that happens before the drafting phase in terms of who's consulted, but I do believe that there's an extensive consultation.

Mr. Martiniuk: But there's nothing in the legislation that requires it, that you're aware of.

Ms. Oh: No, not that I'm aware of.

Mr. Martiniuk: Thank you very much, Chair.

The Chair: Members will know that there was a package provided by research. We're going to start this morning's proceedings off by initial remarks from the member presenting the bill, Michael Prue, the MPP for Beaches–East York.

Mr. Michael Prue (Beaches–East York): Thank you very much, Madam Chair. I see I have five minutes, so I'm going to try to keep it to five minutes. I'd like to first of all thank staff, everyone who has worked on this, because there was a great deal of research, and particu-

larly staff and Ms. Oh for her legal expertise in the last day or so, pulling the bill together in legal terms.

You wonder why the motions are here. I think it was expressed best by her in an e-mail to me: because private members' bills are generally put forward and are done in kind of a quick way because so many of them don't end up going anywhere. There are a number of changes that you will see in front of you, not to change the bill but to make it legal so that, should it become law, it will be ready to go. I thank her very much for the work that she did.

The genesis of the bill can and should be properly be put to Mr. Tom Steers. He was the deputant who appeared before us—I believe he was the second deputant—the other day. You will remember his very poignant remarks about losing his fiancée, about the fire on Queen Street and about the six or seven years he has now spent since that tragic date going to coroners' inquests every day for a month, writing to ministers, trying to get meetings with bureaucrats, pressuring politicians, writing letters to newspapers. This has been his quest, and I was very proud to have taken it up on his behalf and to try to get the changes recommended by the coroner's jury some six years ago in front of the Legislature.

I want to thank the members of the Legislature, who on two occasions—not one, but two—have voted unanimously on second reading to allow this bill to go forward to committee, and the committee members who have listened very patiently over the course of these two days.

I also want to thank Mrs. Jeffrey, my colleague from Brampton Centre, for her work on a related issue. You will see when we get to the motions that some read “NDP motion”; some read “private member's motion.” They are, in all cases, I think, identical, so the ones that I am putting forward she is putting forward as well, because we recognize that this is a private member's bill; it goes beyond party lines. It is trying to achieve the same goal that we both share in common. Her bill, Bill 2, which is not before us today, wants to put sprinkler systems in. Her bill is exclusively a bill that falls under the building code because it relates only to new houses. My bill relates, I would say, 99% under the fire code and 1% under the building code, if we're going to get down to it. That's the fundamental difference.

1010

The reason that there is provision in the building code in this bill you have before you today is that if the bill were to become law, if it were signed into law, from that point on, the building code would apply. I have to tell you that I don't think there would be much call in the building code—under the present building code it is nearly impossible for fire escapes to be built. I don't know where anyone has seen a fire escape on a new building in the last 10 years. They are literally impossible to be built. I would hope that any new building that is going to be built would either be sprinklered or would have interconnecting fire alarms in them. That's the only possibility that would happen.

What this bill is intended to do at the outset is to look after those buildings in Ontario—some of which are 100

years old, 80 years old, 50 years old—that do not meet fire codes. I listened intently the other day to all of the deputations, and each deputation was in favour of the bill. Those who were opposed were not opposed to the contents of the bill; they were opposed to the process.

Just this morning I got a letter—if I could just read the last paragraph into the record; it's from the Ontario Home Builders' Association—which said it all in two sentences. It says, “Please note: OHBA is not necessarily opposed to the concepts proposed in Bill 120. We are, however, concerned by the process.”

The process they want to follow is a process that, quite frankly, in this particular circumstance has not worked. Six years have gone by since the coroner's inquest made the recommendations that are proposed here today. They have never been discussed. They have never been proposed. They have never been the subject of a ministerial meeting. The OHBA has never brought them up, nor have any of the groups that came here and talked about process. They have had six years to use process, and I would say that the process normally works fine.

The reason we have private members' bills is to allow private members to bring up business which is not coming forward by way of government regulation. It allows all private members, no matter what party they are in, to bring forward issues which are not presently in government legislation and are not being proposed or considered in government legislation.

I would gladly cede this private members' bill if there was a process in place or well under way to do something about this. I would suggest that, had the government or had the minister been interested in the particular aspects of this bill—my bill was first introduced on the April 21, 2005. Seventeen months have gone by since this was introduced and debated in the House—it was introduced before that, but actually debated in the House 17 months ago—and had it been the wish of the minister, I probably would not have made it the second time. Had he determined that this was an appropriate cause or one of the things the government wanted to push forward as its own bill, I would not be here today, nor would any of you. This would not be the subject of discussion because I would have made it a different private members' bill.

But it's not been done. Quite frankly, I think the opposition talking about process is a red herring. That's all it is and that's all it should be seen as. It is simply a red herring. If they agree with the concept but want to use a process—if the process is not working, that's why we have private members' bills.

Last but not least, I want to talk about the last speaker we had before us, because he brought it all together. His name was Mr. Sean Tracey, the Canadian regional manager of the National Fire Protection Association. He suggested that, notwithstanding the process, we should proceed. We should proceed because it is important that fire escapes be made of non-combustible materials. He pointed out correctly that the reason we have fire escapes at all in Ontario is that the buildings that have them are not and cannot otherwise be in compliance with the fire

code of today, and that having combustible fire escapes in this day and age makes no sense.

I would also remind you that the other provision here is a provision that can be accomplished very, very easily and very cheaply by putting in interconnected fire alarms. We know that the costs are marginal at best. We know that it's very cheap; it is no more expensive putting these in than it would be putting in cabling for television or a computer system inside of an apartment building or a home. It's the same price. You run a wire, you connect it together; that's all it is.

The reason that there is one of the motions before you, which has been put in both by myself and by Mrs. Jeffrey, is, if there is a sprinklered system in effect, it would be deemed to be in compliance, because we have heard and we know that the sprinklered systems are also wired. I want to say that if people are willing and the apartment owners are willing to take the extra step of having it sprinklered, it is by its very nature wired as well. So that's why we've done it.

I want to thank Mrs. Jeffrey. We've worked together very hard on this issue and I'm hoping that in passing this bill, it will open up the opportunity to have her bill, which also received unanimous approval in the House, passed as well.

The Chair: Thank you, Mr. Prue. We're now going to move into the clause-by-clause consideration of Bill 120, An Act to require the Building Code and the Fire Code to provide for fire detectors, interconnected fire alarms and non-combustible fire escapes, Michael Prue, MPP.

Are there any comments, questions or amendments to any section of the bill, and if so, which section?

Mr. Prue: I have a package; I believe the members have them. As the members will see, if you look at the package, there is an NDP motion and a private member's motion. I am very amenable, because I think that Mrs. Jeffrey should have some kind of stake in this as well, if any member wishes to read the accompanying private member's motion as opposed to mine I'm willing to have that; just let me know. I'll start off, and if anybody wants to include hers, which is identically worded to my own, I am more than happy to let that happen.

All right. So I'll start off by making the first motion?

The Chair: Yes.

Mr. Prue: Okay. The first motion is page 1. I move that subsections 34(2.1) and (2.2) of the Building Code Act, 1992, as set out in section 1 of the bill, be struck out and the following substituted:

"Same—fire alarms

"(2.1) Regulations made under subsections (1) and (2) are deemed to require that every residential building in which there are two or more dwelling units be equipped with,

"(a) fire detectors installed in all public corridors and common areas of the building; and

"(b) fire alarms interconnected such that the activation of a fire detector in a public or common area of the building will sound an alarm that is audible throughout the building.

"Same—fire escapes

"(2.2) Regulations made under subsections (1) and (2) are deemed to require that fire escapes, where permitted, be constructed of non-combustible material."

If I could, this speaks exactly for what the bill is requesting. You will note that they have the number 2 here. Is there a version 2 to this one?

The Chair: Yes—oh, is there not?

Mr. Prue: Anyway, if I can explain: The deeming provisions were said to be better than "shall" because that would mandate the Lieutenant Governor in Council, something that we did not think was appropriate for private members' bills to do. Therefore, I am requesting that this be passed.

The Chair: Thank you. Is there any debate on the amendment?

Mrs. Liz Sandals (Guelph-Wellington): We accept it.

The Chair: Okay. All those in favour? Any opposed? That amendment carries.

Next amendment, Mr. Prue.

Mr. Prue: I think, then, that that would make number 2 redundant because it's identical.

The Chair: Okay, number 3, then.

Mr. Prue: Page 3: I move that section 34 of the Building Code Act, 1992 be amended by adding the following subsection:

"Same—fire sprinkler system

"(2.3) Regulations made under subsections (1) and (2) are deemed to provide an exemption from the requirement described in clause (2.1)(b) if the relevant building is equipped with a fire sprinkler system that conforms with the standards outlined in NFPA 13 'Standard for the Installation of Sprinkler Systems' or NFPA 13R 'Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Storeys in Height.'"

1020

If I can give a rationale for this, you might remember that there were three NFPA requests. On investigation it was found that one was related to trailer homes, and it's not intended in the bill that trailer homes, being private, single-family residences, would be included. Therefore, we have only included the two NFPA standards, 13 and 13R, which relate to multiple-occupancy dwellings—two or more—and in occupancies of up to four storeys in height.

Again, you will note that the deeming provision is used, as opposed to the subsequent motion number 4, which says "shall provide" and encumbers the Lieutenant Governor in Council, which was not my intent or the intent of this bill.

We're asking for your support.

The Chair: Is there any debate on the amendment? Mr. Martiniuk.

Mr. Martiniuk: Yes. I have 3 and 4. I understand 3; number 4 seems to be identical other than the "shall."

Mr. Prue: Yes, because "shall" would force the cabinet.

Mr. Martiniuk: Are you moving 4?

Mr. Prue: No, I'm only moving 3. I'm just showing that there are two possibilities. I would prefer that 3 be done so that it does not encumber the Lieutenant Governor in Council, the cabinet—it's simply "deemed" to have happened; therefore it does—so they don't have to take any action.

The Chair: Further debate?

Mrs. Sandals: We are now moving into an area that has to do with sprinkler systems, and we have some concerns about this. I think Mr. Prue actually captured our concerns quite well in his introductory remarks, because he spoke about the fact that Bill 120 primarily amends the fire code. In fact, when you look at the title of Bill 120, it specifically talks about "An Act to require the Building Code and the Fire Code," which is the primary weight of it, "to provide fire detectors, interconnected fire alarms and non-combustible fire escapes." That has been the subject advertised to the public. If you put on the parliamentary channel, if you looked in the newspaper ads, these were the subjects that were advertised as being open to public hearings.

We're now moving into an area which is those things that were relevant to Bill 2, which, as Mr. Prue himself pointed out, was not what was really originally before the committee hearings, and which primarily amend the building code. In fact, we have an agreement with the Association of Municipalities of Ontario that when we are doing things that affect municipal governments, we will consult with the municipalities. Clearly, when we start to substantially amend the building code and move into the whole area of residential construction, this is something that significantly impacts municipalities.

As we run into this whole area where we're dealing with sprinkler systems, which really wasn't what the original bill was about, and we haven't talked to the municipalities and got their input on the implications of residential construction, for which they are the people who have the hands-on responsibility, we are very concerned about attaching that bill at the last minute, when in fact it was not the subject of the consultations and is quite a significant subject.

Mr. Prue: If I could, and perhaps legal counsel may want to jump in here as well, this is not attaching it to—I want people to understand. This is a deeming provision, should an apartment owner already have a sprinkler system. Sprinkler systems are by themselves interconnected, so that if a sprinkler system goes off in one place, the alarm is sounded elsewhere in the building to let people know the sprinkler system has gone off. What we do not want to do—all this does is say that if an apartment owner, a property owner, has already gone to the next phase, has already gone to the more expensive proposal of putting in a sprinkler system which is alarmed and which will alarm and have the same effect as what I'm trying to do, I don't want them to have to pay the extra—I'm trying to save them money. I'm trying to say that if you've already gone that extra step, the law deems that you've already done sufficient. You don't

have to put in a separate alarm system that's interconnected, because the sprinkler system is alarmed itself. That's all this is. This isn't telling them to do a sprinkler system; this simply says that if you already have one, you already meet my standard; you already surpass my standard. You don't have to institute my standard as well.

The legal counsel is nodding in the affirmative. That's what this is for. It's not to force a sprinkler system.

The Chair: Can I just get counsel to—

Ms. Oh: Yes, that's correct. This provision says that there is an exemption from the requirement to have the interconnected fire alarms if you have a sprinkler system.

The Chair: Thank you.

Mr. Prue: It's to save somebody money.

The Chair: Thank you, Mr. Prue. Mr. Martiniuk.

Mr. Martiniuk: Thank you, legal counsel.

There is no positive initiative to require sprinkler systems. If there were, I think this amendment would be clearly out of order and I would object to it on that basis as to an introduction of an extraneous matter and a matter that is already covered by a bill that's before the Legislature. So all this does is delineate when you require the alarm system, which is the intent of this bill.

I certainly can support it. It's a very clever amendment. I thank my colleague, I thank counsel for this clever amendment, but it seems to cover it. I'd like to support it simply because, if a person has gone to the cost—the enormous cost, by the way, of \$5,000 a unit—to provide for a sprinkler system in conformity with the code, then surely we can give them a small break and not require that they go to the additional expense of fitting an interconnected alarm system, which, under the circumstances, in view of the sprinkler system, is totally unnecessary.

On that basis, I certainly can support the amendment.

The Chair: Is there any further debate?

Mrs. Sandals: Could we have a recess for about a minute or two?

The Chair: Sure, if it helps to resolve any concerns you have. We can come back right at 10:35.

The committee recessed from 1029 to 1032.

The Chair: It looks like the members have returned and we can get back to the consideration of the bill. We were on the amendment on page 3, I believe, and I was asking if there was any further debate.

Mr. Dave Levac (Brant): With the indulgence of the committee, we would request that we defer this particular amendment, if we can move a cycle and continue on with the rest of the amendments until we have further feedback.

Mrs. Sandals: And if we could, I think, also defer the related alternatives, because it doesn't make any sense to defer one and not the related alternatives.

Mr. Levac: Pages 3 and 4.

Mr. Prue: Number 4 is only an alternative which I will not propose if number 3 passes. The others are private members' motions which would be redundant if this passes. So that makes sense.

The Chair: So with unanimous consent of the committee, if we could defer section 1, move on to section 2, and then go back to section 1 when section 2 is completed. Is that to everyone's agreement? All right, then.

So we will then move on to section 2, the amendments of which begin on page 7.

Mr. Prue: Again, I have two identical motions, 7 and 8. Is there anyone who would like to move this private member's motion on the government side? If not, I'll do it.

Mr. Kim Craitor (Niagara Falls): I'd be pleased to do that.

Mr. Prue: You would be pleased to do that? Then it would be number 8.

The Chair: Page 8.

Mr. Craitor: The motion, which I'm pleased to move:

I move that subsections 12(1.1) and (1.2) of the Fire Protection and Prevention Act, 1997, as set out in section 2 of the bill, be struck out and the following submitted—

The Chair: "Substituted."

Mr. Craitor: Thank you—substituted:

"Same—fire alarms

"(1.1) Regulations made under subsection (1) are deemed to require that every residential building that is in existence on a day to be specified by regulation and in which there are two or more dwelling units be equipped with,

"(a) fire detectors installed in all public corridors and common areas of the building; and

"(b) fire alarms interconnected such that the activation of a fire detector in a public or common area of the building will sound an alarm that is audible throughout the building.

"Same—fire escapes

"(1.2) Regulations made under subsection (1) are deemed to require that fire escapes that are in existence on a day to be specified by regulation, be replaced, if necessary, by fire escapes constructed of non-combustible material.

"Retrofit

"(1.3) For greater certainty, the requirements described in subsections (1.1) and (1.2) are requirements for retrofits."

The Chair: Is there any debate on the amendment?

Mr. Prue: I thank the mover. I hope that this is self-evident. There's nothing in here about sprinkler systems. It's to do with the bill. And for greater certainty, the retrofit aspect is put in here. This will, in all likelihood, be 99%-plus of everything that is done. It is highly unlikely that any new buildings will have these requirements because they should be able to stand on their own merit, at least as far as fire escapes, none of which have been built in the province of Ontario that I know of for a number of years. The other provision, for the fire detectors and the fire alarms, is again largely intended for retrofit buildings and, if the law is passed, hopefully would become commonplace in new buildings as well as they're being constructed.

The Chair: Is there any further debate on the amendment? All right, I'll ask if the amendment is to be carried. All those in favour? Any opposed? That amendment carries.

Moving on now to the next—

Mr. Prue: I would then ask that number 7 be withdrawn.

The Chair: Oh, right. That's unanimous consent to withdraw number 7, as it's the exact same motion? That was never moved. Okay.

All right, then, page 9: the next amendment.

Mr. Prue: Members will note that in page 9 and page 10 we again have "deemed" versus "shall," so I'm going to move number 9, which is the deeming provision.

I move that section 12 of the Fire Protection and Prevention Act, 1997, be amended by adding the following subsection:

"Same—fire sprinkler system

"(1.4) Regulations made under subsection (1) are deemed to provide an exemption from the requirement described in clause (1.1)(b) if the relevant building is equipped with a fire sprinkler system that conforms with the standards outlined in NFPA 13 'Standard for the Installation of Sprinkler Systems' or NFPA 13R 'Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Storeys in Height.'"

Again, I don't know whether it has been resolved yet, the one before, but this is the same. It's intended that, in those buildings where the owner has gone to the considerable expense of equipping his building with more modern technology than is being contemplated by this private member's bill, they be exempted from the additional expense of having to put in an interconnected fire sprinkler system when they already have one that is of a higher technological and modern standard which is already installed.

The Chair: Is there any further debate?

Mrs. Sandals: I wonder if we can get some clarification from legislative counsel as to the effect of this clause in terms of whether or not this creates a greater requirement for sprinkler systems or a lesser requirement.

1040

Ms. Oh: It creates a requirement to conform with certain standards that are set out in these documents—well, it does not create the requirement; it says that if you have a sprinkler system that meets the requirements, then you don't have to have an interconnected fire alarm. These requirements are already set out in the building code elsewhere, that apply to new buildings. But if your building already conforms with these requirements, then you don't have to retrofit it to have an interconnected fire alarm. The requirements already do exist.

Mrs. Sandals: So this would fall into the same category as the other amendments. I'm going to suggest that, while we're trying to get some clarification we defer 9 and 10 because, again, we've got the "deemed" versus

the “shall” issue. Correct? The same information: “deemed” versus “shall”?

Mr. Prue: I believe you should also include 11 and 12.

The Chair: I believe pages 9 through 12 are all similar motions.

Mr. Prue: The private member’s bill does not specify NFPA standards, but it speaks to the same issue.

Mrs. Sandals: The one that is on the floor is a much more specific one. I’m presuming that the one that is on the floor is the one that you actually want passed as part of Bill 120.

Mr. Prue: The one that I read in, yes.

Mrs. Sandals: So what we’re looking at at the moment is the one that you actually want passed.

Mr. Prue: Yes, but I’m suggesting that if you want it held down, you should hold down the other ones as well.

Mrs. Sandals: I agree with you that we should probably be holding down 9 to 12.

The Chair: Perhaps the best thing to do, with unanimous consent of the committee, is to hold down this group of amendments and move on to the amendment on page 13. What we need to do, then, is have unanimous consent to defer section 2 and move on to the next section, which is of course section 3. Do we have unanimous consent to set aside and move on to section 3? All right. That’s great then.

Mr. Prue, I think we’re on page 13.

Mr. Prue: Page 13, section 3 of the bill: I move that the French version of section 3 of the bill be struck out and the following substituted:

<<Entrée en vigueur

<<3. La présente loi entre en vigueur six mois après le jour où elle reçoit la sanction royale.>>

If I could, for greater certainty, this simply says that the present law comes into force six months after the day on which it receives royal assent. That’s the best translation I can do for you in the absence of a translator here. I do not believe that it was properly translated in the original.

The Chair: Is there any debate on the amendment?

Mrs. Sandals: Absent any improvement in my French over Michael’s, we’re trusting you.

The Chair: Thank you. On the amendment: All those in favour? Any opposed? That amendment carries.

Shall section 3, as amended, carry? That’s great. Thank you.

Shall section 4, as amended—oh, sorry, this is my first time going through a bill this way. Is there any debate on section 4? Okay. Shall section 4 carry? Thank you.

We can’t go any further now until we hear back on the other two issues that have been set aside.

Mrs. Sandals: If I could request, then, a recess until 11 o’clock.

The Chair: With the unanimous consent of the committee—

Mr. Martiniuk: Perhaps just a little longer, just to make sure. Until 11:15 would suit me. I want to make sure that I don’t return and—

Mrs. Sandals: You don’t want to come back and leave again?

Mr. Martiniuk: If I can avoid it.

The Chair: All right?

Mrs. Sandals: Okay, 11:15.

The Chair: Then if we could reconvene at 11:15, members, thank you very much.

The committee recessed from 1045 to 1115.

The Chair: Welcome back. Thank you, members. We’re resuming consideration of the amendment on page 3. That would be section 1 of the bill. The motion was moved by Mr. Prue. I don’t believe it needs to be read again, so we can continue then with debate on this amendment. Is there any debate?

Mr. Levac: Just for clarification, we’ve gone back to section 1 or we’re finishing section 2?

The Chair: Since so many things were deferred, we’re going to go back to cover everything off and then end at the end, I hope.

Mr. Levac: Thank you, Chair.

The Chair: Is there any debate on the motion before us on page 3, moved by Michael Prue?

Mrs. Sandals: Yes. As you can tell, we’ve been trying to sort out the technical implications of this. Unfortunately, because we just got this very late in the process, we haven’t been able to sort out with our legal and technical advisers what the implications of this motion might be. We’ve very reluctant to support something when we’re not quite sure what the legal and technical implications would be. As I say, this is not a comment of yea or nay so much on the motion. It’s simply that, because we just saw it very recently, we don’t feel comfortable supporting an amendment when we aren’t able to work through the legal and technical implications of it. We will not be supporting the amendment.

The Chair: Is there any further debate?

Mr. Prue: I can only say I’m disappointed. You can read what it says. I’ve told you what it says. The legal counsel has confirmed what it says. This is simply an attempt to make sure that people who have gone to the extraordinary length of putting in sprinkler systems do not have to go again and expend more money to put in a system which would be totally redundant. I guess if they have to—if that’s the government members’ wish that this bill passes, that may be a likelihood. I’m just disappointed for them because it’s money I don’t really want them to spend.

The Chair: Any further debate? Seeing none, then, on the amendment, all those in favour?

Mr. Martiniuk: Could I have a recorded vote, please?

Ayes

Martiniuk, Prue.

Nays

Craitor, Levac, Milloy, Sandals, Wong.

The Chair: The motion fails.

Mr. Prue, I'm not sure if you wanted to bring any of the other amendments. The amendment following is similar, as you had indicated.

Mr. Prue: The next one is number 4. I am reluctant to bring this forward because, although it does the same thing, it is not a deeming provision; it's a mandatory order on the Lieutenant Governor in Council, which I do not believe is appropriate. I cannot imagine that my colleagues opposite, if they would not pass the first one, which causes no problems at all, would support one that encumbers the Lieutenant Governor in Council. Unless they tell me they will, I would just have it withdrawn.

The Chair: Okay, so number 4 is withdrawn.

Similarly, then, we have a private member's motion on page 5. Is anyone prepared to bring that one forward?

Mr. Levac: I would suggest withdrawal as well.

The Chair: Okay. No one is going to bring that one forward.

Mr. Prue: No one's bringing it forward.

The Chair: Yes. It's just not brought forward.

And then page 6: No one is bringing that one forward either? We're then on section 1 as a whole. Shall section 1, as amended, carry? Section 1 carries.

We'll move to section 2. We were on page 9 of section 2. Again, I don't know whether members want to have that motion read again, but the amendment was put on the table earlier by Mr. Prue. Is there any debate on that amendment?

Mr. Prue: I don't know what the instructions have been to the government members here, but I can only reiterate that this is an attempt to help the building industry and apartment owners not to have to spend money unnecessarily when they have already gone to a higher and greater standard.

The Chair: Thank you. Further debate?

Mrs. Sandals: Again, because we have just received this essentially this morning, we are having trouble getting a read on what all the implications of the motion might be, so we're reluctant to support it.

The Chair: Okay. Further debate?

Mr. Prue: A recorded vote again.

Ayes

Martiniuk, Prue.

Nays

Levac, Milloy, Sandals, Wong.

The Chair: The amendment fails.

Again, members, a situation similar to the previous section, where the next pages, 10 through 12, are similar: Mr. Prue, will you be putting the motion on page 10?

Mr. Prue: No. For the same rationale as given earlier, I will withdraw motion number 10 because I do not want to encumber the Lieutenant Governor in Council. The others: Unless there's a mover, I think they're not there anyway.

The Chair: Is anyone prepared to move the next two, page 11 or page 12? Then those are just withdrawn.

We are on section 2 as a whole. Shall section 2, as amended, carry? Section 2 carries.

We've already carried sections 3 and 4.

We are now on page 15. I believe there's an amendment to the title.

Mr. Prue: I move that the long title of the bill be struck out and the following substituted:

"An Act to deem that the Building Code and the Fire Code require fire detectors, interconnected fire alarms and non-combustible fire escapes."

If I could, the rationale is that it just better encapsulates what's actually contained within the bill than what was there earlier.

The Chair: Is there any debate on the amendment? No debate.

All those in favour? None opposed. So that amendment carries.

Shall the title of the bill, as amended, carry? All those in favour? Great, thank you.

Shall Bill 120, as amended, carry? Okay.

Shall I report Bill 120, as amended, to the House?

Thank you, members. That concludes the clause-by-clause consideration of Bill 120, An Act to deem that the Building Code and the Fire Code require fire detectors, interconnected fire alarms and non-combustible fire escapes.

Thank you very much. We'll report the bill to the House.

The committee adjourned at 1124.

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Official Report of Debates (Hansard)

Friday 1 September 2006

Journal des débats (Hansard)

Vendredi 1^{er} septembre 2006

Standing committee on regulations and private bills

Kevin and Jared's Law
(Child and Family Services
Statute Law Amendment), 2006

Comité permanent des règlements et des projets de loi d'intérêt privé

Loi Kevin et Jared de 2006
modifiant des lois en ce qui
concerne les services à l'enfance
et à la famille



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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLS**

**COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ**

Friday 1 September 2006

Vendredi 1^{er} septembre 2006

The committee met at 1007 in committee room 1.

**KEVIN AND JARED'S LAW
(CHILD AND FAMILY SERVICES
STATUTE LAW AMENDMENT), 2006**

**LOI KEVIN ET JARED DE 2006 MODIFIANT
DES LOIS EN CE QUI CONCERNE
LES SERVICES À L'ENFANCE
ET À LA FAMILLE**

Consideration of Bill 89, An Act to amend the Child and Family Services Act and the Coroners Act to better protect the children of Ontario / Projet de loi 89, Loi modifiant la Loi sur les services à l'enfance et à la famille et la Loi sur les coroners pour mieux protéger les enfants de l'Ontario.

The Vice-Chair (Mr. Tony C. Wong): Good morning, ladies and gentlemen. This is the standing committee on regulations and private bills. Today we're dealing with Bill 89, An Act to amend the Child and Family Services Act and the Coroners Act to better protect the children of Ontario.

I wish to call the attention of members to the report in front of you, prepared by the research officer. That package also includes a letter from the Ministry of Children and Youth Services, and another one from the Ministry of the Attorney General, replying to and clarifying some of the points raised by members on Tuesday, August 29.

Another matter that I would like to deal with before I start with any amendments is that on Tuesday, August 29, Mr. Jackson requested that a letter from Margaret Patterson be deemed to be read into the record. I've been advised by the clerk that no letter could be deemed to be read into the record, so I need unanimous consent from the committee to have some member read it into the record, if the committee wishes.

Mr. Cameron Jackson (Burlington): Mr. Chairman, I apologize. I thought that if we had unanimous consent we could get the letter in, but I would be more than pleased to. I indicated to Ms. Patterson that I would read the letter into the record—it's not a very long letter—if that is agreed.

The Vice-Chair: Is that agreed, members? Agreed. Please proceed.

Mr. Jackson: This is a letter dated August 29, 2006, to Premier Dalton McGuinty and all elected members of the committee for Bill 89, Kevin and Jared's Law.

"I would like to thank you for the opportunity to address this committee with a view to assisting in some small way to what is an extremely important first step towards wiping out the ageless blight on society, namely abuse. All kinds of abuse!

"Abuse has no gender nor does it skip over any form of life on this planet. However, today, we are addressing the Kevin and Jared's Law, Bill 89.

"I will first of all present myself to you. My maiden name was Margaret Helen Patterson and my married name is Skelton. I am a survivor of domestic abuse which, from my personal knowledge, was a plague handed down from father to son and on to grandsons. I grew up in a male-dominating house and watched my mother being physically abused at the whim of the man who was my father. I watched my grandmother as she was beaten and debased daily. I grew up thinking this was normal and that somehow it was the fault of the women. We had all been brainwashed into believing that somehow we women deserved this treatment and the men simply had to do this for the women's own good. These men did not believe in a God but did believe that they were indeed gods to be reckoned with.

"Children who are victimized are victimized for life.

"I have written a book about my dreadful life in what was locally known as a highly respectable family. There was no shortage of intelligence nor of charisma, however, there was indeed a grave shortage of respect for all ... human being.

"When people choose to abuse because something simply does not go their way or their target does not simply agree with them, then we must all remember that the perpetrator makes a choice to bully, ... pick up a knife ... pick up a hammer or a gun ... or simply picking up a stick ... in order to subdue, control, maim or kill whomever they choose to victimize.

"It is all about choices in this life and we have to educate our young that abuse is indeed an unacceptable choice and will not be tolerated.

"To leave children in the care of anyone who has the penchant to making all the wrong choices is setting these children up to be the next Kevin and Jared. Do you know what little Jared's last words must have sounded like?

"Daddy don't! Daddy don't! Don't hurt my Mummy Daddy! Please Daddy stop it! No! Daddy No! No! Daddy No! I am bleeding Daddy. Mummy help me? Mummy ... Mummy ... Mummy ... Mu..."

"Let us never forget this heroic little boy and let us all get busy with the job of protecting every child born from this day forth.

"I would like to suggest that two years mandatory jail terms for the very first offence. Second offence should warrant at least 10 years simply because the safety of the target of the abusers must be protected.

"No more ankle braces, no more consideration about keeping their jobs, no more thinking that 'they must have asked for it.' It is white and black ... you choose to do that crime then you must do the time. We must build more prisons and make the prisoners earn their keep by working and extra monies earned should go to the victim for what is necessary professional help.

"I am enclosing a copy of my book which is titled *My Mother's Voice* for your perusal. I have made suggestions in this book on how to start to solve this horrible affliction. I am not interested in promoting my book but am very interested that perhaps it can be used as a catalyst towards wiping out this horrific social plague.

"Note: this is not a marriage problem this is a social problem.

"The laws must be changed, improved autopsies after the fact is great, but it does not stop the evil being dealt out.

"I am begging you with all of my heart and on behalf of all the Kevins and Jareds to make Ontario the very first province to demand zero tolerance towards all kinds of abuse. I would love to see posters erected right across this province stating that Ontario has zero tolerance for any form of abuse. Let us be the leaders in attacking this horrific problem. If we can spend millions to advertise the dangers of smoking ... successfully ... then we can do likewise for the dangers of abusers.

"I leave this problem in your very capable hands and beseech you to change the thinking of protectionism towards the bully and place that same protection where [it] is most definitely needed and that is with the victims.

"Little Kevin and Jared you will linger within my heart forever."

That was signed by Margaret Helen Patterson.

Thank you, Mr. Chair.

The Vice-Chair: Thank you, Mr. Jackson.

Members of the committee, before we begin clause-by-clause consideration, I will now invite Mr. Jackson to make opening remarks.

Mr. Jackson: Thank you, Mr. Chairman.

I have with me three separate bills that have been before the Ontario Legislature: Bill 78, which goes back to May 10, 2004; Bill 83 in March 2006; and Bill 89 in April 2006. Three times this Parliament has had an opportunity to examine the circumstances around the tragic deaths of children who die at the hands of a parent or family member while under, or having been under, some form of supervised access in our province.

Parliament has devoted two full hours of public debate on this issue, and during the course of two full hours, we've had two motions passed unanimously by the House in support of the content, the purpose, the direction and the safety features implicit in this legislation. To my recollection, there wasn't a single negative comment on behalf of the children and the victims who were involved in the cases.

We do know statistically that this form of violence, this form of getting back at a spouse through the children, is growing in this province. We know that in the month of March in this province, four children died while a form of supervised access was present in domestic situations. We know that in a case in Oshawa, for example—this committee heard briefly about Luke's Place—the very first moment that the supervised access order was removed, the boy was murdered by his father. This is a very serious problem. It's more than a problem, because it has the tragic consequences of loss of life. We've heard passionate, emotional testimony from five victims of violence, three of whom had their children die as a result of these circumstances and several of whom were concerned that their children are still at risk.

The bill is very simple; it's only three clauses. It calls for the chief coroner of this province to make mandatory a coroner's inquest when a child dies under these circumstances. There are only three occasions when a coroner is compelled by the citizens of this province to conduct an inquest: when a criminal dies while in some form of custody; when someone dies during an industrial accident; and currently, the courts have suggested that the province's interpretation of the circumstances when a coroner calls an inquest when vulnerable persons in institutions die—that there should be an automatic coroner's inquest. I understand that the government, the Attorney General's office, which has a bit of a conflict of interest here, is currently in the courts arguing against the protection components of mandatory coroner's inquests. I would hope that, as parliamentarians, we can make the distinction between what our courts are dealing with with persons in institutions—in the case that's before the courts in Ontario, mental health patients—and a child whose loss of life can be directly attributed to the failure of the state to take seriously child protection issues, to fully implement the instruments of child protection that are there to protect a child but that did not. So I do not see these as contradictory policy directions. I believe we, as parliamentarians, have the right to move forward and seek mandatory coroner's inquests.

There are only two features to this legislation. One is a mandatory coroner's inquest, and the other is that if, in the opinion of the coroner, the victim's family should have standing at a coroner's inquest—that currently is the law now—the coroner has that right. But we are putting it into law, not in regulation, that the coroner would then say, "You can have standing."

1020

For those members of the committee who do not understand what "standing" means—and I see one

learned member of the bar who's here today, so he knows and he could probably do a better explanation of this—"standing" in simple terms means that when Julie Craven was before us just two days ago, she would be invited by the chief coroner of this province to actually come forward and ask questions at a coroner's inquest through legal counsel. She would be able to ask the police why it took them one hour to find Jared's body. She would be able to ask the paramedics why they were denied access to the home. The police refused to allow the ambulance attendants to come in to attend to Jared until they cleared the house. She would be able to ask Andrew Osidacz's mother why she didn't phone the police when he apparently took a carving knife from her home and walked three doors in an effort to kill his wife.

So standing at a coroner's inquest is a very important issue, but I'm not even asking for that to be mandatory. I'm saying that that would be the choice of the coroner and, further, that the victims' justice fund in this province, which is currently bloated to the tune of \$47 million—I checked it this week on the Web—that, in fact, they could apply, based on the coroner's recommendation, to Management Board of Cabinet to have the cost of legal counsel paid for.

This is not a major public policy leap. In fact, I wrote it so that the Attorney General maintains control over this fund. I know, because I was the person who drafted the original terms of reference for this fund almost 17 years ago. This is of critical importance that not only will the coroner's inquest be able to find answers, but it will also allow families to get answers to questions as well. So this is not a major leap forward. This is a small but substantive piece of legislation for Ontario citizens on the path to improving their victims' rights in our province.

I hope that Jenny Latimer and Julie Craven and several other deputants have inspired the members of this committee to keep an open heart and an open mind on these most critical matters to those families who've been affected.

That concludes my comments. I will have some minor amendments that I will be bringing forward, but at this time, I want to thank you, Mr. Chairman, and the committee for the day of hearings. Hopefully, we will come through today with a bill that we can take forward to the Legislature. Thank you.

The Vice-Chair: Thank you, Mr. Jackson. Members of the committee, are there any comments, questions or amendments to any section of the bill, and if so, to which section?

Mr. Dave Levac (Brant): I move that subsection 72.2(1) of the Child and Family Services Act, as set out in section 1 of the bill, be amended by striking out the portion before clause (a) and substituting the following:

"Duty to report child's death

"72.2 A person or society that obtains information that a child has died shall report the information to a coroner if."

The Vice-Chair: Mr. Jackson?

Mr. Jackson: Could I ask, are you approving section 1 and section 59.2, and then we can go in sequential order?

The Vice-Chair: I've been advised by the clerk that we don't need to debate every clause unless there's an amendment. So I would like to deal with the first amendment, if that's agreeable to you.

Mr. Jackson: So, in other words, section 59.2, there are no amendments and therefore it stands.

The Vice-Chair: That is my understanding.

Mr. Jackson: I was seeking clarification. Okay. Then I apologize for interrupting. I wanted to hear Mr. Levac's explanation.

The Vice-Chair: Mr. Levac, please continue.

Mr. Levac: Thank you. It's basically streamlining, and it enhances the speed with which the reporting gets done. Instead of minister to minister, it can be done directly by an individual in any organization, similar to CAS or those that would be automatically compelled to report it directly to the coroner.

Mr. Jackson: Can I ask a question? My training was that it's hard to impel a transfer agency to report to other ministers, so that's a policy variation. In the guidelines that we were given for the child death reporting and review process, do the CASs report to the ministry's regional supervising coroner? So are we clear, are your current procedures for CASs to report directly to the coroner or do they report to the minister?

Mr. Levac: At present?

Mr. Jackson: Yes.

Mr. Levac: I'm not aware of that; if I can get some assistance on it?

Interjection.

Mr. Levac: Directly to the coroner.

Mr. Jackson: Okay. So we are being consistent that under the current guidelines they report directly.

Mr. Levac: Correct.

Mr. Jackson: Okay, because originally, legal counsel had suggested that you can't get one ministry reporting to another ministry's agency unless it's through the minister.

Mr. Levac: My understanding is that that has been clarified and it would expedite the reporting directly to the coroner. The coroner would then take it from there and do whatever the coroner does. It doesn't have to wait for ministerial comment.

It's very similar—if I may, just a quick note—to the expectation that a teacher, not a principal, would report child abuse to the CAS. They're still expected. They don't have to go to their principal. They can go directly and report, by law. If they believe there's abuse, they have to make the contact with the CAS.

The Vice-Chair: Any further comments or questions on this amendment?

Mr. David Zimmer (Willowdale): I would also just observe that I think the amendment removes any political influence from the communications chain and allows the coroner to move ahead quickly without having to wait for direction from the minister. It cuts out any time that the

minister may need for discussion, so it's a much more direct approach to this issue.

The Vice-Chair: Any further comments or questions? If not, then shall this amendment carry? All in favour? Opposed, if any? That is carried.

Any further questions, comments, amendments? Mr. Levac.

Mr. Levac: I have an amendment to section 1 of the bill, clause 72.2(1)(c) of the Child and Family Services Act.

I move that clause 72.2(1)(c) of the Child and Family Services Act, as set out in section 1 of the bill, be struck out and the following substituted:

"(c) the child subsequently died as a result of a criminal act committed by a parent who had custody or charge of the child at the time of the act."

Shall I explain?

The Vice-Chair: Would you like to speak to the amendment?

Mr. Levac: Right now, we believe that the way the clause is does not capture the intent, which is the parent or the person responsible for the charge. It could be anybody who comes in under the parent's supervision. That means that a drunk driver committing a criminal act—if the parent was under supervision and kills the child. That's not what the intent of the bill was. It was to go after the person who was responsible for the child. So that was just the change of the wording. The intent, we believe, was to capture the family member who was responsible for committing a criminal act. That's the purpose of the change.

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The Vice-Chair: Any comments or questions? Mr. Jackson.

Mr. Jackson: One of my original drafts indicated that simply leaving it as "a parent" might be strengthened by having "or family member who had custody or charge of the child at the time of the act." Without getting into a very long and detailed analysis of the complications associated with supervised access, it's also designed for other family members, domestic arrangements. It's a lot more flexible: the range of persons who have access. There were reasons why we indicated—"not committed by a parent," the whole issue around the plea bargaining component and the burden of proof of who actually committed the crime, as opposed to negligence, failing to provide the necessities of life and so on. I'm trying not to focus on Jared Osidacz, where there was a clear criminal act of the father stabbing the child to death versus the clear case of criminal negligence that was plea bargained away.

I'm not going to hold it up for that purpose, but I would recommend a friendly amendment to say "by a parent or family member who had custody," if that's acceptable to the mover.

The Vice-Chair: Mr. Levac, do you accept that as a friendly amendment?

Mr. Levac: Can I get clarification to address what Mr. Jackson is saying? I'd like to make sure that we do cover

that point off, so I would defer to legal counsel to ensure that we're doing that right. So if I could have some assistance from legal counsel. I think it's fair to say, Cam, that a definition of "parent," if it's encompassing the people that you're talking about, would cover it off. If not, then we would accept it as a friendly amendment.

The Vice-Chair: Before I invite legal counsel to speak, Ms. Horwath would like to speak as well.

Ms. Andrea Horwath (Hamilton East): My only question would be, in cases where a parent was negligent in the care they were providing for their child and some other person was given access to the child and then killed the child, the way it's written, this doesn't sound like it takes care of that. And that person may not be a family member. That person might be a friend—

Mr. Jackson: A boyfriend.

Ms. Horwath: —or an acquaintance or anyone.

Mr. Levac: The boyfriend. So maybe we need to get some clarification to encompass exactly what we're trying to do here.

The Vice-Chair: Mr. Jackson, are you formally moving this as an amendment to the motion on the floor?

Mr. Jackson: Yes. I feel that "committed by a parent" is too narrow, which is why I had it written a little more flexibly. Let's get the clarification first on the question of—

The Vice-Chair: Can you please move it formally for the record.

Mr. Jackson: I move that section 72.2(1)(c) be further amended by adding after "parent" the words "or family member."

Mr. Michael Wood: I'm Michael Wood, legislative counsel. I'd like to ask a point of clarification: Is "or family member" a family member of the child or of the parent?

Mr. Jackson: Of the parent who had custody at that time.

Mr. Levac: The rest of the sentence would say that.

Mr. Jackson: Okay. Now we can see what the problem is here.

Mr. Levac: That's why we wanted legal counsel to give us some advice on it.

The Vice-Chair: Let me invite legal counsel to speak at this time.

Interjection.

Mr. Levac: One more before that.

The Vice-Chair: Mrs. Jeffrey.

Mrs. Linda Jeffrey (Brampton Centre): Can I ask one more question? Having dealt with First Nations communities, I would be worried that the word "parent" might limit who would be involved. I would be happier with a more inclusive word, because in the First Nations it can be your band member, your tribe member or the aunt down the street. Maybe "guardian" would be a better word. I don't know what that word would be but maybe legal counsel can help us with that.

The Vice-Chair: Before we go any further, I don't know if Mr. Jackson would like to comment on this.

Mr. Jackson: We already know that the government is going to be putting forward an amendment, the causes for an investigation, so this is a rather benign section, considering—I can foresee circumstances where the parent isn't in the room when the child is murdered. Okay? So they're not directly committed, convicted, or there is no direct conviction. That's why I use the example.

Kevin Latimer's father went to the Beer Store, got drunk, passed out, and his child died. He copped a plea and got a lesser charge. I think leaving it the way it is, with the discretion with the coroner, is a far smarter way to go than someone saying, "We don't have to report because he wasn't charged." Meanwhile, the child is dead. There was a "supervise" order in place. He was in another room or had left the child abandoned.

The Vice-Chair: Mr. Jackson, I guess you still have not responded to the question of whether the family member is one of the parents or—

Mr. Jackson: I answered that question.

Mr. Levac: Just read the rest of the sentence. I think that's what he's saying.

The Vice-Chair: Okay.

Mr. Jackson: It is the family member who had custody or charge of the child at the time of the act.

The Vice-Chair: Okay, thank you. Legal counsel, please come forward.

Ms. Jennifer Gallagher: My name is Jennifer Gallagher. I'm counsel with the Ministry of Children and Youth Services. Thank you for giving me an opportunity to assist the committee with this point.

It may be of assistance for the committee to know that the term "parent" is defined in the Child and Family Services Act. That definition will apply to this particular section, and the definition defines "parent" very broadly. I'll read to you in fact who would be included: "the child's mother"; an individual described in one of paragraphs 1 to 6 of subsection 8(1) of the Children's Law Reform Act, unless it is proved on a balance of probabilities that he is not the child's natural father. What that means in plain language is any male person who is presumed to be the biological father of the child.

It also includes an "individual having lawful custody of the child"; and "an individual who, during the 12 months before intervention under this part, has demonstrated a settled intention to treat the child as a child of his or her family, or has acknowledged parentage of the child and provided for the child's support." That would include any person who, within 12 months before the society became involved, cared for the child as a parent, even if it wasn't under a formal, legal order. That often, in child protection proceedings, includes grandparents, family members or members of a child's band who have been providing care for the child.

The next piece is "an individual who, under a written agreement or a court order, is required to provide for the child, has custody of the child or has a right of access to the child." Certainly in this section, in terms of "parent," it would be anyone who has supervised access under a court order.

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Lastly, it's "an individual who has acknowledged parentage of the child in writing under section 12 of the Children's Law Reform Act." This section specifically excludes a person who is a foster parent. I can assist the committee by advising that the term "parent" in this section includes a very broad range of persons.

The Vice-Chair: Thank you, legal counsel. Any questions or comments?

Mr. Levac: I'll defer to Mr. Jackson, but having heard that, I'm satisfied that the word "parent" captures the spirit of what it was that this clause is talking about, and that is the person, not some stranger who commits the murder or the kid gets killed and the drunken driver is playing on the street in front of the house. We're going after the people who are supposed to be taking care of the child. The definition of "parent" seems to me to be quite satisfying, so I'll leave it at that.

Mr. Jackson: I have indicated the desire to make sure that persons who are designated by the parent to have responsibility—this sits at the seat of the main problem we have with children's aid societies: We put the child into custody and then something happens, something that's inappropriate, but it's not always the individual who was charged with that responsibility who was involved. That's why it's the family members who encapsulate that.

We'll vote to the amendment and then we'll vote on the amendment. I don't foresee very many circumstances where the act isn't committed directly. We're trying to get an automatic coroner's inquest when the child dies under these circumstances. The police may take considerable time before they lay proper charges, or the charges may vary, as they did with Kevin Latimer, because he was charged with criminal negligence causing bodily harm at first, and then criminal negligence causing death. He plea bargained criminal negligence causing death and got off. But there was a criminal charge in Kevin Latimer's case. He should have had a coroner's inquest.

The Vice-Chair: Mr. Jackson has moved an amendment to Mr. Levac's motion. Any further comments on Mr. Jackson's amendment?

Mr. Levac: Yes, now that I have legal counsel here. It's an amendment to the amendment and the words—Cam, help me—"family member"?

Mr. Jackson: "Or family member who had...." The parent designated it to a grandparent. Generally, it's always the grandparent or the girlfriend or, in this case, Jared Osidacz was in the care as well of the girlfriend.

Mr. Levac: Having any of the circumstances that have just been described, would there be anything detrimental to including that change to the definition of a parent by adding "family member"? Does that broaden it any more, does that help—

Ms. Gallagher: It does broaden it.

Mr. Levac: It does broaden it? Because there's an expectation in what Mr. Jackson is saying that if we say "parent," then we do have a scope. If we say "family

member,” do we broaden the scope too far? Is it anything that we shouldn’t be doing in terms of protecting the children?

Ms. Gallagher: I would defer to legislative counsel, but I can comment that—

Mr. Levac: I’ll ask either one.

Mr. Wood: It’s really a policy choice, but I think both legal counsellors are in agreement that by adding “family member,” you do expand the scope of “parent” from the definition that was read to me, and it must be a fairly recent change to the—

Ms. Gallagher: It’s in the definitions under section 37 that apply to part III only. So because of the placement of this particular section in section 72.2, that definition would apply.

Mr. Wood: And it would seem to me that “family member” would include people such as aunts and uncles who would not be included in the definition of “parent.”

Ms. Gallagher: Yes, that’s correct.

Mr. Wood: So it’s a policy question as to whether you want to expand the scope of the clause.

Mr. Levac: I do.

The Vice-Chair: Any further comments? We need to have a vote on this amendment to the amendment. If there are no further comments or questions, then I want to put this to a vote. All in favour of this amendment? Opposed, if any? That is carried.

The amendment, as amended: Do we have any further comments or questions? If not, will the amendment, as amended, carry? All in favour? Opposed, if any? That is carried.

We’re still with section 1, members of the committee. Any further comments, questions or amendments?

Mr. Jackson: Yes. I’m in the same section as you.

Mr. Levac: Okay.

Mr. Jackson: I move that subsection 72.2(1) of the Child and Family Services Act, as set out in section 1 of the bill, be amended by adding “Despite any other duty, policy or practice” at the beginning.

The Vice-Chair: Mr. Jackson, I will take a recess to distribute your amendment. We’ll take a recess of three minutes.

The committee recessed from 1046 to 1057.

The Vice-Chair: Members of committee, can we resume? We are now back in session, and copies of Mr. Jackson’s amendment to section 1 have been distributed. Mr. Jackson?

Mr. Jackson: Thank you, Mr. Chairman. I’ve inserted this section, “Despite any other duty, policy or practice,” simply because the government recently decided to take more seriously the issue of unusual child deaths in this province; they haven’t specifically looked at the issue that’s before this bill. That’s why putting this in allows the government to continue, in its current piecemeal approach, to look at child protection. I’m simply saying that this bill, which calls for a mandatory coroner’s inquest and the reporting mechanisms to it, can occur despite any other duties, policies or practices that they have been instructed by their minister.

The Vice-Chair: Any comments or questions?

Mr. Levac: By way of clarification and a question to Mr. Jackson, inside of the expectation that the bill will require a mandatory coroner’s inquest, that’s on top of rather than either/or. Is that what you’re saying?

Mr. Jackson: Yes. This bill, in and of itself, should not interfere with the administrative—remember the timely six boxes? I’m showing for Hansard. I’m actually pointing out the six boxes in the steps of how we internally investigate these things without telling anybody. Remember?

So in spite of all of this internal stuff that’s going on that the public never sees, which is now the government’s policy, duty and practice—in spite of all that—I’m saying, this legislation then says you must go forward. My fear is, you have an amendment which discusses that this process shall be behind closed doors, done administratively by the very people involved, and then that will be the process. I don’t want to end up with that, so I’m trying to separate that. This says that you can have any steps leading up to it. You don’t have to report directly to the minister; you report directly to the coroner, and so on and so forth. In legal form, it’s just more clear that you can continue doing all that, but you must have this coroner’s inquest. You can investigate all you want, but at the end of the day there’s going to be a coroner’s inquest. So I’m respecting this closed-shop process that the government has come up with in favour of this transparent process at the end of the day. That’s all it was designed to do.

The Vice-Chair: Any further comments or questions?

Mr. Jackson: Call the question.

The Vice-Chair: If not, then I’m going to put this to a vote. All in favour? Opposed? The motion is defeated.

Any further questions, comments or amendments? Mr. Jackson.

Mr. Jackson: We have a considerable number of procedural matters to deal with in section 22, and I would ask that we stand that down till my further amendments. I didn’t receive these amendments until about 6 o’clock last night; I received a call from the Premier’s office about 10 o’clock at my residence last night. I’ve not shared all this information with my colleague from the NDP. So I wonder if I could stand that down and go to section 41, which I believe is a less contentious motion, and then we’ll return to 22, where the substantive elements of the bill are.

The Vice-Chair: Mr. Jackson, I’m still on section 1.

Mr. Jackson: I know you are.

The Vice-Chair: So can we deal with section 1 first?

Mr. Jackson: Okay.

The Vice-Chair: Mr. Levac.

Mr. Levac: I do have an amendment for section 1. I move that subsection 72.2(2) of the Child and Family Services Act, as set out in section 1 of the bill, be struck out.

That section is related to an amendment we just passed previously that makes the references that we did debate, the minister-to-minister communication. Having that one

done, it just means that this is matching it, so that's why we want that struck out.

The Vice-Chair: Any comments or questions? If not, all in favour? Opposed, if any? That is carried.

Any further amendments to section 1 of the bill? If not, shall section 1, as amended, carry? All in favour? Opposed, if any? That is carried.

We will now deal with section 2. Mr. Jackson?

Mr. Jackson: I would ask that we move to section 41 of the act dealing with cost of representation, which I don't believe is as contentious, and I do have an amendment to table in that regard. Then we can return to the contentious one, which I think may take a considerable amount of debate, which is subsection 2(1) and section 22.1.

The Vice-Chair: We have not seen your amendment yet. Do you have a copy of that for distribution?

Mr. Jackson: Yes, I'm just pulling that together for you now.

The Vice-Chair: We'll take a recess of five minutes to make copies and distribute your amendment.

The committee recessed from 1104 to 1115.

The Vice-Chair: Members of the committee, we will now reconvene. Mr. Jackson has indicated that he wishes to make an amendment to subsection 2(2) of the bill prior to considering subsection 2(1). I need unanimous consent to do that. Is this agreeable?

Mr. Levac: That's fine.

The Vice-Chair: Mr. Jackson.

Mr. Jackson: I wish to amend section 41 of the act as set out in the second section. This talks about the costs of representation, on the understanding that the coroner may designate someone to have standing who is victimized by the death of the child. That's subsection 3. It sets out that the coroner would designate and approve it—

Mr. Levac: Point of order, Mr. Chairman.

The Vice-Chair: Mr. Levac.

Mr. Levac: Sorry for the interruption. Do we not have to read the amendment first, and then we'll—

Mr. Jackson: Yes.

Mr. Levac: I'd appreciate that.

The Vice-Chair: Mr. Jackson, please move it for the record.

Mr. Jackson: All right. I move that section 41 of the Coroners Act, as amended by subsection 2(2) of the bill, be amended by adding the following subsection:

"Exception

"(5) Despite subsection 4, Management Board of Cabinet shall not approve any payment under that subsection to a person who has been convicted of an offence under the Criminal Code (Canada)."

The Vice-Chair: Thank you.

Mr. Jackson: As I was stating, subsection 3, which we're in, deals with the coroner determining that a victim or a partner or a parent could have standing at the inquest, and that that person may apply to the minister to have the costs incurred for representation by legal counsel be paid from the victims' justice fund. It then goes on to say that this is subject to one condition, which is that it

must be approved by Management Board of Cabinet. This is now a second condition, which is that there cannot be a Criminal Code conviction, so that there cannot be a cloud associated with anyone who has standing before the coroner's inquest. That's why I've submitted that further amendment.

The Vice-Chair: Any further comments or questions?

Mr. Levac: I think I grasp the concept here. Basically, in a nutshell, you're not going to reward somebody who doesn't deserve to be rewarded, or using the fund's money for any other purposes. That's what I understand it to be. I hate to say this again, but can we take a short recess to ensure that legal counsel understands that? Because I'm not a lawyer and I don't understand the nuances of commanding Management Board of Cabinet, or of legal advice as to if it's doable, that kind of stuff. If I can just take a short recess for that.

The Vice-Chair: Mr. Zimmer would like to speak at this time.

Mr. Zimmer: Can I just ask Mr. Jackson a question? With this exception (5), that Management Board not approve funding anybody who's been convicted of a criminal offence, in the situation where, let's say, there's a 45-year-old parent who at age 19 had a conviction for impaired driving some 20 years before, and it was just routine, to the extent that there is routine impaired driving—it was somebody stopped at a Christmas RIDE program—so they have a criminal record, presumably that would catch them. Is it the intent to go that far?

Mr. Jackson: I figure if you can operate a boat on a lake in Ontario and lose your licence, Mr. Zimmer, for the same example I think that you shouldn't have access to the victims' justice fund in the province.

Mr. Zimmer: Thank you. I just wanted to understand the scope.

Mr. Jackson: I agree with you.

The Vice-Chair: Thank you, members. We will take a recess of five minutes.

The committee recessed from 1119 to 1127.

The Vice-Chair: Members of the committee, we are back in session. Any comments or questions on Mr. Jackson's amendment?

Mr. Zimmer: The concern here is that the proposed amendment is too broad, and I set up the example when I asked Mr. Jackson the question, did he agree that the section would catch a 45-year-old male who had been convicted at age 19 for impaired driving but who had otherwise led an exemplary life? I can extend that to an even more dramatic scenario. What about the 45-year-old female who at age 18 was convicted of shoplifting in a record store? Presumably, she has a criminal record for theft under a couple of hundred dollars, but with that extant or existing record, if this section applied, she would be denied funding for her legal needs.

That raises a number of questions having to do with discrimination under the Charter of Rights and Freedoms and one's ability to be treated fairly in the conduct of their defence at a coroner's inquest and so on. So in my view, if it was called for a review in a judicial

proceeding, this would have all sorts of charter discrimination problems. So I would urge the committee to vote against this.

The Vice-Chair: Any further comments?

Mr. Jackson: Far be it from me to correct someone with a legal degree, but a person with standing at a coroner's inquest isn't there for their legal defence. So it would be misinformation to suggest that.

Standing is a privilege. It's conveyed by the coroner in the interests of getting at the truth. Standing is an impediment—standing with legal counsel, rather, I should say, could potentially be an impediment, but their rights are not being abrogated, because the state determines who gets standing at a coroner's inquest.

I have lobbied long and hard to have individuals like the de Villiers family in the Jonathan Yeo inquest. I could go on and on with my experience at the coroner's office. However, the victims' justice fund is a privilege, to assist those family members. Currently, the government policy is that it is unavailable to victims directly, and if that is the case, then that really is the issue here. However, Management Board, in my view, should not be handing out this money to people who have victimized other people.

Using your example, Mr. Zimmer, of a person who had the same criminal conviction for drinking and driving, either a boat or a car, and there is a criminal conviction and someone dies, it would be most inappropriate for Management Board to be put in a position to have to say, "You know what? We just don't think this person should have it, because somebody has died as a result of their criminal negligence."

This is to save Management Board from having to make an obvious decision, and an unnecessary controversy for the government of the day. That's why I put it in. Personally, I think if you have broken the law, then you shouldn't be sourcing a discretionary fund—which this is—that assists victims to have standing when they've been victimized.

I don't mean to correct you, but when you referred to "for their legal defence," they're not in a position to defend. They're not on trial. They are there so that the victim has a voice.

You can have standing, but in the case of Julie Craven there are outstanding matters. When the chief coroner visited their home with me, he brought along the OPP. I asked him about the presence of the OPP. He indicated that there may be part of the investigations into the conduct of the Brantford police and therefore he required the OPP to be there, because the Brantford police can't investigate themselves. Under the system we had present to us before, that is the case, but under a coroner's inquest, the coroner's office has to maintain that independence.

So in my view, Julie Craven should have legal counsel. There is sufficient evidence from her testimony, from the death certificates, from the police reports, the medical certificates—in all of the documents I've seen

and the hours I've spent on this case—that she should have legal counsel.

As I've said, the attempted murder weapon was secured without anyone contacting the police; there's criminal negligence there. The failure to report Jared being stabbed—potential criminal negligence there for not reporting the death of a fellow citizen, or the attempted murder, and the failure to report, which is failure to provide the necessities of life. There are some ongoing civil matters here. If there was ever a case where a family deserved to have access to the fund to assist them—I've never seen a better case than this in my 22 years at Queen's Park.

The purpose of this section is to relieve Management Board of Cabinet from the awkward situation of learning at some point that the individual who's applying has a criminal record and has, by definition in our laws, victimized other people. That's why it's been submitted. I would encourage members to see the merit in that.

The Vice-Chair: Mr. Zimmer.

Mr. Zimmer: Equal protection of the laws: It's equal protection of your ability to defend yourself legally in the criminal context. It also includes legal representation, generally, in a non-legal context.

There will be huge charter issues here. I throw out this example, again, just to make the point: What about the single mother aged 40 who's caught up in this process, who's had a shoplifting conviction at age 19 involving some food and milk that she stole, arguably, to feed the family, and as a result of that she has this existing criminal conviction? She would, under this amendment, be barred from access to that fund. I can't conceive that that's the extent to which you would intend this amendment to apply, but nevertheless, that's the extent to which it would apply. The amendment is far too broad. It sweeps everybody up under the carpet. The amendment should be defeated.

Mr. Levac: I want to say, on two levels—number one, as Mr. Jackson pointed out, far be it from him or from me to question somebody who's studied law, but there's so many branches of law, I would hazard a guess that even lawyers would admit that they don't know every single law of the land and how it applies.

The concern I have is that it not be seen that the Chair of Management Board, nor I or anyone else—and I've spoken publicly about this—would support that someone under the circumstances that Mr. Jackson talked about would be given money to defend themselves or to explain themselves or get standing on the committee. I agree that we should be very cautious and careful of how we do that in the fund that is being talked about by Mr. Jackson. I don't even question Mr. Jackson's intent and Mr. Jackson's experience. As I said in the deputations before, I highly respect the focus of his concern in justice and I understand that he's done an awful lot of work on this, so being a lawyer or not being a lawyer isn't the argument for me.

What I'm concerned about is getting it right so that we don't get these kinds of things happening. We took a

five-minute recess so that I could get some clarity on that, Mr. Jackson, and they told me they'd probably need a week and a half. None of them are constitutional lawyers. It got brought up; it's a concern. And it will become evident in the near future, when we do amendments, that not wanting to support it has got nothing to do with us saying to you that under these explained circumstances we shouldn't be giving money. That goes without saying in terms of my colleagues or even the Chair of Management Board. We couldn't assume—and I agree with you. We shouldn't be putting our government—not ours personally in terms of the Liberals, but our legislative governments—into circumstances where they have to be seen as being supportive of people who do really nasty, bad things. What we shouldn't also be doing, though, is setting them up to fail if indeed that's the circumstance behind constitutional challenges and we're not doing enough homework on this.

Quite frankly, my decision under the circumstances, hearing clearly what Mr. Zimmer is saying and hearing what legal counsel said in our five-minute recess and coming back to the comment that it will become clear as to why this concern needs to get arrested, is to bow to that.

Mr. Jackson: Frankly, the concept was shared with me by legal counsel. It's not uncommon for the government to protect itself in discretionary matters, not to extend the benefit to persons who were convicted under the Criminal Code. It exists in a number of factors, and in Mr. Zimmer's most recent example in government, operating a motor vehicle, you are denied a certain privilege. So that's the context. I didn't dream it up; it was recommended to me by legal counsel. I've tabled it; my conscience is clear. We'll proceed, but I certainly did get good legal advice in terms of presenting it. So we will proceed and we will agree to disagree.

The Chair: Ms. Horwath.

Ms. Horwath: Thank you for the opportunity to make a few comments on this. I've been listening to the debate back and forth, and I can see both sides of the picture in terms of what the intent is, to make sure that the fund is not used in a way that would support or reward previous criminal activity or in some way be seen to be saying to someone, "No matter what you've done in terms of your own past behaviour or your own past brushes with the law, you're still able to access the fund."

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So I understand Mr. Jackson's desire to make that not accessible to someone who has had serious Criminal Code convictions. However, I do take to heart the examples brought forward by Mr. Zimmer in regard to the reality that the Criminal Code. Quite a large body of infractions are covered under there, and so there could be some infractions that are not considered to be so heinous as to make a person not eligible for assistance if they were seeking standing in an inquest, wanted to have legal counsel and wanted to get some support financially to assist with that.

It seems to me that the crossed-out amendment on the same page, which I know isn't on the floor, deals with the idea that where Management Board of Cabinet considers it appropriate. That's where we need to come down on this kind of issue. It's never, ever black and white. We've seen by the examples given by both the member moving the motion as well as the government side that it's not black and white; there are always subtleties. By casting this net too narrowly in terms of not allowing anyone through it—that causes me some concern. So although I support the intent of the reason why this motion's here, I have some concerns with the far-reaching implication of it. I would like to have seen some kind of compromise come forward, because I think it's an important piece to have in there, but I'm not comfortable with it being as broad as it is in terms of catching everyone who has had any kind of conviction at all under the Criminal Code.

I don't know whether there can be an amendment that would satisfy the kinds of concerns that are being raised. Obviously, that's not something that the government side has been able to come up with. Even though I do support the intent that this motion encapsulates, I really feel uncomfortable with the wording as it stands, so I'm not going to be able to support it.

The Vice-Chair: Thank you, members. If there are no other comments or questions, I will put this to a vote. All in favour of the amendment? Opposed, if any? That is defeated.

Any further questions, comments, amendments?

Mr. Jackson: Chairman, following on your earlier ruling to complete section 2 before section 1, I wish to speak to items 3 and 4, which are still remaining in section 41 of the Coroners Act.

Mr. Levac: Is that the amendment you just gave us, Cam?

Mr. Jackson: No. I'm just talking to completing this section, which I asked the Chair if we could do before, and leave section 22 to the end, because it's the most contentious—

The Vice-Chair: Mr. Jackson, you're not moving any amendment for subsections (3) and (4); you want to speak to those two subsections, right?

Mr. Jackson: That is correct.

Interjections.

The Vice-Chair: Is this agreeable to members, for Mr. Jackson to speak to subsections (3) and (4)? They both relate to section 41 of the Coroners Act, which we just dealt with.

Mr. Jackson: Chairman, I was wondering if Mr. Levac had any changes to subsection 2(2).

Mr. Levac: Yes, section 2.

The Vice-Chair: Subsection 2(2)?

Mr. Levac: Yes. Let me make sure I'm following what Mr. Jackson is asking here. You have before you amendments that we have presented. I would defer to the clerk. The next amendment that I'm talking about, is that the question that's being asked of me, about subsection

2(2), the death of a child? Mr. Jackson, is that what you're talking about?

Mr. Jackson: Am I to look at your amendments?

Mr. Levac: Yes, in reference to your question. Did you say section 2?

Mr. Jackson: My understanding is, the amendment that I have from you in front of me—

Mr. Levac: —is subsection 2(1).

Mr. Jackson: And I'm referring to subsection 2(2). I was asking if you had any amendments for 2(2).

Mr. Levac: Yes, I do.

The Vice-Chair: You have an amendment, Mr. Levac, for subsection 2(2) of the bill?

Mr. Zimmer: The section reads, "Section 41 of the act is amended by adding the following subsection: 'Costs of representation.'" Is that where we are?

Mr. Levac: Yes. I think we're going to have to have copies of this, so we're going to need to take another recess. Do you want me to read it before, Mr. Jackson and Ms. Horwath?

Mr. Jackson: I'm wanting to know what section we're in. I have an amendment to subsection 2(1), in accordance with your amendments.

The Vice-Chair: We're not dealing with that section yet.

Mr. Jackson: I understand that, but I'm wanting to understand—when I'm looking at this document in front of me, it amends subsection 2(1) and then it further goes on to amend subsection (2), the death of a child. Is that correct?

The Vice-Chair: I think Mr. Levac is putting forward a separate amendment, and we don't have a copy of that yet. Is that correct?

Mr. Levac: No, you don't. Might I ask for clarification? I'm looking at subsection 2(1) in section 2—

The Vice-Chair: We're not dealing with that at this time.

Mr. Levac: —and my request is that we sequentially deal with the amendments as we normally do so that we can move on to all of section 2, and sequentially we would start with subsection 2(1).

Mr. Jackson: The Chair has already ruled on that and he has agreed to accept my amendments if we do section 2 before we do section 1. I asked for that; the committee granted that.

Mr. Levac: So we do not—

Mr. Jackson: We're finishing section 2 and then, once that's done, we will finish the contentious section 2(1).

Mr. Levac: And we do not close off section 2 after we deal with the amendments that Mr. Jackson is talking about?

The Vice-Chair: Members of committee, the unanimous consent that I got from you related to subsection (2) of section 2. I did not at that time know that Mr. Jackson would also like to speak to subsections (3) and (4) of section 2, but they are related because they all relate to section 41 of the Coroners Act. I don't know

if it is agreeable for Mr. Jackson to continue to speak to subsections (3) and (4) prior to dealing with subsection (1).

Mr. Jackson: The comments that I made were that we deal with section 2 in its entirety and then finish with section 1. Those were the exact words that I requested in my request. It was not challenged nor—

The Vice-Chair: That's correct, but subsection (2) technically does not include subsections (3) and (4), because we're dealing with subsection (2) at this time.

Mr. Jackson: We're dealing with subsection 2(2). Anything that falls in—and that's what I asked—subsection 2(2), and that includes item 3, costs of representation, payment, and the recent amendment, "exemption," that was defeated. I had asked that that section be approved and voted on before we move to the final—the only reason I asked was that was the arrangement that I informed the Premier's office of last night, because we were trying to work an accommodation if we cannot salvage—the government will put an amendment in a moment that will be rather controversial, and I wanted to separate the controversy of that from the less controversial subsection (2). That was my purpose and my intent, and I informed the Premier's office of that last night when they called me. I asked for that, and I didn't get an objection.

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The Vice-Chair: The legislative counsel would like to speak.

Mr. Wood: I think there's perhaps some confusion here between, on the one hand, the subsections of the bill and, on the other hand, sections of the Coroners Act that are being amended. As I understand the ruling of the Chair earlier, what the committee was going to do was to look at 2(2) of the bill, which deals with everything that the bill does to section 41 of the Coroners Act. In fact, the committee can only look at subsections of the bill in making its rulings.

We just had a motion from Mr. Jackson to amend section 41 of the Coroners Act; it was defeated. My understanding was that the committee is still considering 2(2) of the bill, i.e., everything related to section 41 of the act. After that's done, then the committee would return to consider 2(1) of the bill, which relates to section 22.1 of the Coroners Act.

The Vice-Chair: Mr. Levac.

Mr. Levac: Further clarification, please: If that is the case, the question I have is, does it stop us from returning to subsection 2(1) of the act?

The Vice-Chair: No, it does not.

Mr. Levac: Nothing closes the door.

Mr. Jackson: No, no. I stood it down; all I did was stand it down.

Mr. Levac: I appreciate that, Cam, but I'm just making sure that that's understood in terms of what the process is, so that the door doesn't get closed on this amendment that we have because we've done something technical.

The Vice-Chair: No, I don't think we have any problem going back to subsection (1) after we've dealt with subsection (2).

Mr. Levac: That does not include the amendment Mr. Jackson gave us under subsection 2(1), so we will be returning to Mr. Jackson's amendment—

Mr. Jackson: Both yours and mine.

The Vice-Chair: That is correct.

Mr. Levac: —and we will be returning back to the amendment we're submitting once we've finished the discussion that Mr. Jackson has received through the Chair consent to finish. A question on that: Are we receiving amendments, Mr. Jackson, in your discussion?

Mr. Jackson: No.

Mr. Levac: Okay, thank you.

The Vice-Chair: Mr. Jackson.

Mr. Jackson: There are only two key elements to this piece of legislation. One is the mandatory nature of the coroner's inquest in the case of a child who dies at the hand of a parent when there is or has been a supervision order in place. The other piece that is rather critical and important is this whole issue of once an inquest has been determined, in the opinion of the coroner, should a family member who's been adversely affected be given standing that they can apply through the minister to Management Board—because the public cannot apply to Management Board directly; they can only apply through a minister—and Management Board would approve it. This is a very significant element to Kevin and Jared's Law.

In particular, it was clearly evidenced with the comments we received from the women who were before us who experienced the high cost of participating in the court system and the proliferation of not having a real voice in our court system. So now that they find themselves with standing in a coroner's inquest, it's absolutely essential that they be provided with, or be considered for, the assistance of legal counsel.

I might suggest to you that under the previous government, the Ontario victims of crime office, the OVC, provided assistance to victims who found themselves in these kinds of services. I referred to it in the public hearings as “navigating the system.” This currently does not exist today any longer. However, the victims' justice fund clearly sets out opportunities for the public to participate and therefore they qualify. So we're just stating that this is one reason upon which an application can be made by an Ontario citizen—a victim—who the coroner says can have standing, should be allowed to apply. They may not get it, but they should be allowed to apply to have their legal costs covered so that legal counsel can assist them in cross-examining individuals who are before or compelled to be in attendance during a coroner's inquest. As I've stated earlier, this is subject to the approval of Management Board, so the government is not changing policy here; we're just putting in law what is currently in practice for the province.

Mr. Chairman, those are my comments. I urge members—the victims community is very anxious to see this section embedded in our law. We were one of the

first provinces to have such an extensive victims' justice fund, and we'd like to see it working more directly for victims in our province.

The Vice-Chair: Thank you. Any further comments on subsection 2 of the bill? Mr. Zimmer.

Mr. Zimmer: Let me just raise—sorry, I'm trying to follow several bouncing balls here. Let me just raise a number of technical, legal and administrative issues that need addressing with respect to this amendment. First of all—

Interjection.

Mr. Zimmer: All right. We'll come back to that.

The Vice-Chair: Mr. Zimmer, do you want to reserve your comments at this time?

Mr. Zimmer: Yes. We'll reserve comment.

The Vice-Chair: Any further comments, questions?

Interjection.

The Vice-Chair: No, we're not voting yet, because we will now go back to subsection 2(1).

Mr. Jackson: Section 2?

The Vice-Chair: We do not vote by subsection, Mr. Jackson. We have to complete dealing with section 2 before we put this to a vote. So we're going back to subsection 2(1).

Interjection.

The Vice-Chair: Yes, but I have an amendment from Mr. Levac in front of me and I would need unanimous consent to deal with your amendment first because it's chronologically—

Mr. Jackson: Mine follows later?

The Vice-Chair: That's right, yes.

Mr. Jackson: My 22(1) amendment?

The Vice-Chair: That's correct. I got a copy of this about 10 minutes ago, so chronologically it was received after the other amendment on subsection 2(1).

Mr. Jackson: Might I state, Mr. Chairman, that that would not be my ruling if I were in the chair because we previously took the onus away from the minister in subsection 72(2). So it would be required, and legal counsel would advise you, that currently, as it stands, this section has to be amended to remove the onus from the minister to putting the onus on “a coroner shall.” So, having brought that to your attention, that has primacy given that we, as a committee, unanimously amended the section in 72.2.

We need to clean up the language before we proceed, otherwise we are attempting to amend a bill which contradicts what we just approved in subsection 72(2).

The Vice-Chair: Mr. Jackson, I understand your point, and I'm going to invite the legislative counsel to comment.

Mr. Wood: It is true, as Mr. Jackson says, that an amendment is required to section 22.1 of the Coroners Act to make it consistent with what the committee has done in section 1 of the bill. However, it is not my call to decide which of two motions that affect section 2 of the bill should go first. That decision is up to the Chair. I assume Mr. Jackson has a copy of the government motion that has been filed which affects the whole of

section 2. I'd just point out that if that motion passes, then Mr. Jackson's motion would conflict with it.

Mr. Jackson: Yes, precisely.

Mr. Levac: Mr. Chairman, given the circumstances of the delicacy with which we've been gently plodding along in trying to get some things done, I don't have a problem seeking unanimous consent for Mr. Jackson's amendment to be put forward.

The Vice-Chair: Thank you. Do we have unanimous consent for Mr. Jackson to deal with his amendment on subsection 2(1) first? Agreed? Mr. Jackson.

Mr. Jackson: Thank you, Mr. Chairman.

I move that section 22.1 of the Coroner's Act, as set out in subsection 2(1) of the bill, be amended by striking out "The minister shall direct a coroner to hold" and substituting "A coroner shall hold."

The Vice-Chair: Thank you. Further comments?

Mr. Jackson: This very clearly—I agreed with the government on having all parties in the province report directly to the coroner, and the coroner, understanding the circumstances, will be required under the law to conduct a coroner's inquest, as set out in the previous clauses which we have approved: 72.2(1)(a), (b), (c) of the Child and Family Services Act. This, in effect, is the singular most important *raison d'être* for this bill, the fact that the coroner shall hold an inquest into the death of these children. The government has been helpful in streamlining that process, and I thank them for that, but at this point, the whole purpose of Kevin and Jared's Law, as stated by the grieving mothers of both Jared Osidacz and Kevin Latimer—they asked specifically that it be mandatory for the coroner to call these inquests. That is the entire purpose of having this bill, and this section will be further clarified in that regard.

The Vice-Chair: Thank you. Any further comments or questions?

Mr. Levac: There probably are some concerns that will be raised in the next round of amendments and we'll clarify our position as to why we can't support this amendment.

Mr. Jackson: Recorded vote.

The Vice-Chair: Any further comments, questions? If not, then I'm going to put this to a vote.

Ayes

Horwath, Jackson.

Nays

Jeffrey, Levac, Rinaldi, Zimmer.

The Vice-Chair: This motion is defeated.
Any further motions?

Mr. Levac: I move that section 2 of the bill be struck out and the following substituted:

"2.(1) Section 1 of the Coroners Act is amended by adding the following definition:

"'child' means a person under the age of eighteen years; ('enfant')

"(2) Section 10 of the act is amended by adding the following subsection:

"Death of child

"(2.2) If a child who is subject to an order for access that is supervised, or that had been supervised within the previous 12 months, dies as a result of a criminal act committed by a parent who had custody or charge of the child at the time of the act,

"(a) the person who is, or was, supervising the access shall immediately give notice of the death to a coroner; and

"(b) the coroner shall investigate the circumstances of the death;

"and, as a result of the investigation he or she is of the opinion that an inquest ought to be held, the coroner shall issue his or her warrant and hold an inquest upon the body."

The Vice-Chair: Thank you. Mr. Levac, the clerk has pointed out that you seem to have missed a few words.

Mr. Levac: I did?

Interjection: "If."

Mr. Levac: The "Death of a child"?

Mr. Wood: No, the "if" is in the final—

The Vice-Chair: The second-last line.

Mr. Wood: The second-last line: "and, if as a result...."

Mr. Levac: Okay. I'll start with (b):

"(b) the coroner shall investigate the circumstances of the death;

"and, if as a result of the investigation he or she is of the opinion that an inquest ought to be held, the coroner shall issue his or her warrant and hold an inquest upon the body."

The Vice-Chair: Thank you. Members of committee, I am going to rule this motion out of order because the amendment opens a section of the Coroner's Act that is not open in Bill 89. In order to do that, I need unanimous consent from committee members. Do I have unanimous consent?

Mr. Levac: To accept the amendment?

The Vice-Chair: To accept the amendment.

Mr. Levac: You have it from me.

The Vice-Chair: Members, is this agreeable?

Mr. Levac: Mr. Chairman, under those circumstances, may we take a recess for 15 or 20 minutes?

Mr. Zimmer: Can we come back at 1?

Interjection: A point of order: My stomach growleth.

Mr. Jackson: Did Hansard get that or not is the big question.

The Vice-Chair: We'll take a recess and come back at 1.

The committee recessed from 1206 to 1311.

The Vice-Chair: Members of the committee, we will now reconvene. Mr. Levac moved an amendment to section 2 of the bill which I have ruled out of order. Mr. Levac.

Mr. Levac: No further amendments.

The Vice-Chair: Any further comments or questions? If not, then we will vote on section 2. Shall section 2 carry?

Mr. Jackson: Mr. Chair, just for clarification, what is remaining in section 2 now, before the act?

The Vice-Chair: Subsection 2(1) is unamended. Subsection 2(2) has been amended.

Mr. Jackson: It's not amended.

The Vice-Chair: Sorry, subsection 2(2) is as is. It has not been amended.

Mr. Jackson: Thank you.

Ms. Horwath: Mr. Chair, wasn't section 2 amended by Mr. Jackson?

Mr. Jackson: That was defeated.

The Vice-Chair: All the amendments on section 2 have been defeated. So section 2, as unamended—

Mr. Jackson: As is.

The Vice-Chair: Shall section 2 carry? All in favour? That's carried.

Section 3: Any comments, questions or amendments? We'll vote on section 3 now. Shall section 3 carry? Carried.

Section 4: Comments, questions, amendments? Shall section 4 carry? That is also carried.

Shall the title of the bill carry? All in favour? That is carried.

Shall Bill 89, as amended, carry?

Mr. Jackson: Mr. Chair, before we do that, this was an unusual set of circumstances, and I want to commend the Chair for navigating us through it as skilfully as he has. I had a defeated amendment which in section 22.1 removed, "The Minister shall direct a coroner," and that now is the way the bill will sit. Is that not correct, that it will sit in that way, as opposed to, "A coroner shall hold"?

The Vice-Chair: That is my understanding.

Mr. Jackson: Is it not procedural that in the event that there is a desire, we'd need unanimous consent to reopen that to amend it?

The Vice-Chair: Are you requesting unanimous consent to reopen that?

Mr. Jackson: I'm looking to my colleagues if this might not better support the intent. I supported the government's amendment which took the onus off the minister to report but put the onus on the coroner to react. Both my colleague from the New Democratic Party and myself supported the government's positive amendment in that regard. This slightly sits as inconsistent. At the time, the government thought other amendments may come forward. Might I ask the indulgence of the Chair to inquire from the government if they would consider the importance of correcting or adjusting the minister directing a coroner to the amendment "a coroner shall hold" an inquest, instead of the minister directing them? I think that would be consistent with what the government came forward with as a positive recommendation in their first amendment.

The Vice-Chair: Mr. Jackson, you are requesting consent to reopen subsection 2(1), right, which previously defeated an amendment related to—

Mr. Jackson: —which I understand would need to be unanimous, but I'm seeking the advice of Mr. Levac.

Mr. Levac: This is procedural, so the question I ask is to basically get to what Mr. Jackson is requesting. That is, can we open the defeated amendment singularly without opening any other part of the act that's been passed so that we can re-evaluate our decision to defeat, and if so, signalling to Mr. Jackson that we don't have any problems with what he asked initially because of our decision to pass the bill, and reflect what Mr. Jackson said: that, because we passed an amendment earlier to avoid the minister, it's now the coroner's responsibility to call that inquest?

If I have an understanding that that's all we're doing, to try to just get that amendment done and get it out of the way without reopening anything else, I'm okay with it. That would be the copy Mr. Jackson gave us, handwritten. Procedurally, is that doable?

The Vice-Chair: Members of committee, I've been advised by the clerk that we need to reopen the whole of section 2 in order to consider any amendments.

Mr. Levac: I'll defer to Mr. Jackson. I think he knows exactly what I'm talking about.

Mr. Jackson: I appreciate my colleague from Brantford's comments. It would be my intention to only recommend to the committee that we revisit the amendment of subsection 2(1) as previously tabled and defeated only, and that the unanimous consent to reopen is done so with the understanding that it is to amend that one friendly amendment suggested.

Mr. Levac: Can I ask if Ms. Horwath is okay with it?

The Vice-Chair: Members of committee, the clerk has requested a recess of five minutes to confirm that this is possible—

Mr. Levac: Procedurally possible.

The Vice-Chair: —in terms of procedure. So we'll take a recess of five minutes.

Mr. Levac: Thank you.

The committee recessed from 1317 to 1322.

The Vice-Chair: Members, we can now reconvene. I need, first of all, unanimous consent from members to reopen section 2 of the bill. Do I have that? Is this agreeable? Okay. We will now reopen section 2.

I understand that Mr. Jackson wants to move the same amendment that was previously defeated. In that regard, I need unanimous consent specifically for Mr. Jackson for a defeated amendment to be reconsidered. Do I have unanimous consent on that? Yes.

Mr. Jackson.

Mr. Jackson: I move that section 22.1 of the Coroners Act, as set out in subsection 2(1) of the bill, be amended by striking out "The Minister shall direct a coroner to hold" and submitting "A coroner shall hold".

The Vice-Chair: You mean, "and substituting."

Mr. Jackson: And substituting—I'm sorry—"A coroner shall hold."

The Vice-Chair: Okay, thank you. Any further comments, questions? If not, then we can vote on that. Shall the amendment carry? All in favour? That is carried.

Any further comments, questions or amendments to section 2? If not, then section 2 has now been amended. Shall section 2, as amended, carry? All in favour? That is carried.

Shall Bill 89, as amended, carry? All in favour? That is carried.

Shall I report the bill, as amended, to the House?

Mr. Levac: In tradition—I know Mr. Jackson will have a short comment to make; I do too—I want to thank the committee. I want to thank all of the staff at the ministry level for helping us and guiding us through this. I would mention Mr. Jackson's crusades over the years and, particularly in this case, thank him for his passion and compassion in dealing with the bill. I want to thank the families, the deputants, for coming forward. I couldn't be prouder of this committee than I am today. Thank you.

The Vice-Chair: Thank you, Mr. Levac. Mr. Jackson?

Mr. Jackson: Chairman, I too, want to thank the members of the committee for perhaps one of the most difficult committee days we've had, listening to some of the most difficult and tragic circumstances hitting families in our province. So to the staff who've come forward from the ministries to help guide us, to our table staff who've assisted us, to Mr. Levac, who has worked closely with me, and Ms. Horwath for her support, I want to thank each and every one of you.

I was asked about 15 minutes ago about my reaction to a certain item in this potential bill, and I said, "Please look at the short title of the bill. It's not my name on that bill. It's Kevin and Jared." So we all did something very special for Kevin and Jared. We may not be able to help Kevin Latimer, but I personally am quite confident that there will be a coroner's inquest for Jared Osidacz, as there will be mandatorily in this province for his father, who murdered him. So I'm also deeply moved by the opportunity that Julie Craven may achieve standing at a coroner's inquest and that she may be considered to be given the counsel that she will need in order to navigate through that process.

So to everyone, thank you. This is a proud day for victims' rights in our province, and I thank you. I will certainly not be shy about sharing that on the floor of the Legislature if we can get this passed as soon as possible. My understanding is that we've worked out with the House leaders that this bill would get tabled on 25 September, when we come back and that we'd have a short opportunity. I look forward to the comments from the member for Brantford and the member from Hamilton East in the House that day.

The Vice-Chair: Thank you, Mr. Jackson. Members of the committee, I also want to thank all of you, the ministry as well as committee staff and members of the public who've participated and assisted us in this matter.

So shall I report the bill, as amended, to the House? That's carried.

Any other business? If not, the meeting is adjourned.

The committee adjourned at 1328.

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**Standing committee on
regulations and private bills**

**Comité permanent des
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLSCOMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ

Wednesday 15 November 2006

Mercredi 15 novembre 2006

The committee met at 0902 in committee room 1.

ELECTION OF VICE-CHAIR

The Chair (Ms. Andrea Horwath): Good morning, everyone. The standing committee on regulations and private bills is called to order. We have a very heavy agenda, so I'd like to get things on the road right away. Today we're here to commence public hearings on Bill 124, An Act to provide for fair registration practices in Ontario's regulated professions.

Members, before we start, the ministry staff have requested permission for one of their staff who is sitting in the audience to use a laptop during committee. I just want to make sure that members are in agreement with that request.

Mr. Frank Klees (Oak Ridges): As long as we get the information when she's finished with it.

Mr. Dave Levac (Brant): Not all of the information that's in the laptop, just what's done today—is that what you're talking about, Mr. Klees?

Interjections.

The Chair: That's fine, then, I take it. Thanks very much.

Our first order of business is the election of a new Vice-Chair. Are there any nominations?

Mr. Mario Sergio (York West): I'll nominate Mr. Ramal for Vice-Chair.

Mr. Khalil Ramal (London—Fanshawe): I accept the nomination.

The Chair: Thank you, Mr. Ramal. Are there any further nominations, just as a formality?

Mr. Klees: I'd like to nominate Mr. Levac.

Mr. Levac: I really think that's very humbling, but I'm going to respectfully reject that offer because I'm just too overwhelmed.

The Chair: Are there any other nominations? There being no further nominations, I declare the nominations closed. Mr. Ramal is elected Vice-Chair of the committee. Congratulations, Mr. Ramal.

SUBCOMMITTEE REPORT

The Chair: Our next order of business, committee members, is the adoption of the subcommittee report. Could I have someone move and read the report, please?

Mr. Sergio, are you moving the report? Are you going to read the report?

Mr. Sergio: I'm going to move it and then, as usual, I'm going to read it, if it's okay with the Chair.

The Chair: Please go ahead.

Mr. Sergio: Your subcommittee on committee business met on Tuesday, October 31, 2006, and recommends the following with respect to Bill 124, An Act to provide for fair registration practices in Ontario's regulated professions:

(1) That the committee hold public hearings in Toronto on Wednesday, November 15 and November 22 in the morning (9 a.m. to 12 noon), on Tuesday, November 21 in the evening (6 p.m. to 9 p.m.) and in Hamilton on Wednesday, December 6, 2006, in the morning (10 a.m. to 12 noon).

(2) That the minimum number of requests to warrant travel to Hamilton be six.

(3) That if travel to Hamilton is not warranted, Wednesday, December 6, morning be used for clause-by-clause consideration of the bill.

(4) That clause-by-clause consideration of the bill be held on Wednesday, December 6, from 3:30 p.m. to 6 p.m. (in addition to the morning session if travel to Hamilton is not warranted).

(5) That the committee clerk, with the authority of the Chair, post information regarding the committee's business on the Ontario parliamentary channel, the committee's website and one day in the Toronto Star, the Hamilton Spectator, the St. Catharines Standard, the Brantford Expositor and the London Free Press.

(6) That the committee clerk send a copy of the committee advertisement to all the regulatory bodies in Ontario and request that they post the information in their respective newsletters.

(7) That interested people who wish to be considered to make an oral presentation on this bill should contact the committee clerk by 5 p.m., Thursday, November 9, 2006, for the Toronto hearings and by 5 p.m., Wednesday, November 15, 2006, for the Hamilton hearings.

(8) That, on Thursday, November 9, 2006, after 5 p.m., the committee clerk supply the subcommittee members with a list of requests to appear received for Bill 124.

(9) That, if there are more requests received than spaces available, each of the subcommittee members sup-

ply the committee clerk with a prioritized list of the names of witnesses they would like to hear from by 6 p.m., Thursday, November 9, 2006, and that these witnesses must be selected from the original list distributed by the committee clerk to the subcommittee members.

(10) That the committee clerk, in consultation with the Chair, be authorized to schedule witnesses from the prioritized lists provided by each of the subcommittee members.

(11) That if all groups can be scheduled the committee clerk, in consultation with the Chair, be authorized to schedule all interested parties and no party lists will be required.

(12) That late requests be accommodated on a first-come, first-served basis as long as there are spaces available.

(13) That groups and individuals be offered 10 minutes in which to make a presentation on Bill 124.

(14) That the deadline (for administrative purposes) for filing amendments be Friday, December 1, 12 noon.

(15) That the deadline for written submissions be 5 p.m., Tuesday, December 5, 2006.

(16) That the research officer prepare a summary of the testimony heard.

(17) That the research officer prepare background information on legislation in other provinces as well as in the states of New York and California; and provide statistics on over-supply in each of the regulated bodies.

(18) That the clerk of the committee, in consultation with the Chair, be authorized, prior to the passage of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

That is the report, and I'll move it, Madam Chair.

The Chair: Thank you very much, Mr. Sergio. Is there any debate on the report?

Mr. Peter Tabuns (Toronto-Danforth): I don't have debate, but if we could have a copy of the research electronically. I know there are hardcopy portions that you can't give to us electronically, but that which can be electronically supplied would be very useful. Otherwise, no debate.

The Chair: All right. Thank you. If there's no other debate, all those in favour of the report? Any opposed? The subcommittee report is carried.

0910

FAIR ACCESS TO REGULATED PROFESSIONS ACT, 2006

LOI DE 2006 SUR L'ACCÈS ÉQUITABLE AUX PROFESSIONS RÉGLEMENTÉES

Consideration of Bill 124, An Act to provide for fair registration practices in Ontario's regulated professions /
Projet de loi 124, Loi prévoyant des pratiques d'inscription équitables dans les professions réglementées de l'Ontario.

ALI NAQVI

The Chair: We're now going to go into the public hearings portion of our day. I want to welcome everyone who's here and ask that our first witness, Ali Naqvi, come forward and take a seat at the end of the table. You'll have 10 minutes for your presentation. That includes any time for questions. So if you want to get yourself comfortable and then state your name for the purposes of Hansard and begin your presentation.

Mr. Ali Naqvi: Good morning, Madam Chair. Good morning, gentlemen of the committee. My name is Ali Naqvi. I'm an immigration consultant by profession but by conviction I'm a political organizer and a community activist in the South Asian and Muslim communities.

Let me start by telling you the general sense that new Canadian communities have out there for Bill 124, and I apologize in advance for being candid.

The general sense out there in the new communities about Bill 124 is that this is a wishy-washy attempt to lure votes. It is another attempt to deceive new Canadian professionals.

Let me further elaborate. The new Canadian communities, specifically the South Asian professionals and the Muslim professionals, who have immigrated to Canada consider that there are two bodies to this issue: the registration bodies—i.e., the professional bodies—and the new Canadian professionals. They have also come to the conclusion after reviewing the proposed bill that the Ontario government is not playing the role of an honest broker. The belief out there is that this bill clearly sides with the registration bodies.

I do realize and appreciate that frustration plays a major role in it, but we can make this work. This is a good step. It may be a baby step, and, just like my two children, they have started walking backwards. But I humbly suggest that to make this work we need to incorporate certain elements that were recommended by Justice Thomson in this land-breaking inquiry report.

I will briefly describe the amendments that the new Canadian communities wish to see made in this bill.

Justice Thomson asked for the establishment of an independent regulatory appeal tribunal. That's one of the first amendments that has to be made to this bill. This will give a sense of fair play as well as judicious expediency of this issue.

The second amendment that needs to be made to this bill to make this bill truly useful is the provision of legal and professional advice to new Canadians seeking recognition of credentials. People come to this country, to this province, make all the sacrifices; they do not know where to go, what to do. They need professionals to guide them. This bill does not guarantee that.

The third amendment that I believe has to be incorporated into the bill is the recognition and naming of the professional regulatory bodies. Justice Thomson clearly did it. We cannot leave it for the regulations. The names of the bodies should be incorporated in the act itself.

The fourth amendment I wish to point out is to fully establish a fair registration practices court in the legis-

lation. I appreciate that the bill talks about fair registration practices, but it does not fully describe those, and this is the heart and soul of the concern out there in the new Canadian communities. They believe they are, once again, being deceived. Incorporate what are fair practices, quantify them so that if the registration bodies do not follow the same, we know that they are being unfair.

The next amendment is to suggest that we need to establish a department within the access centre that has been proposed in the bill. This department will evaluate the equivalence of foreign credentials. We need a department that has the capacity of creating equivalent standards with foreign countries vis-à-vis Ontario so that once those criteria are established, it's very clear, straightforward and simple for new Canadian professionals to come to Canada and Ontario, and their credentials can be evaluated straightforwardly vis-à-vis the standards out there.

The sixth amendment I would like to point out is that the new Canadian communities once again want it to be transparent and want the minister, upon recommendation of the fairness commissioner, to be given the power to eliminate registration practices that are contrary to the code. Once you have a code established in the act, the minister should have the power to eliminate any practice which is contrary to the act.

The seventh amendment that I believe needs to be incorporated: We would wish that the fairness commissioner annually report to the Legislature the progress and development of Bill 124, which will eventually, hopefully, be an act.

Lastly, as an amendment we suggest that the fairness commissioner has to be appointed by the Legislature, not by the government of the day, so that once the government changes, we don't see another political appointee out there. We believe that he should be appointed and accountable to the Legislature, the Legislature being elected and accountable to the people.

These are the amendments we wish to propose.

The registration issue and the recognition of foreign credentials issue are, simply put, a matter of life and death for new Canadians out there. The frustration they are feeling today, facing today, the seed of this frustration, will turn into the plant of desperation and the rebellion tree for the coming generations. We are not just destroying one generation; we are destroying many to come. I wish that Dr. Jiang Guo Bing was here to make a presentation before this committee today. But unfortunately, he committed suicide. He had a doctorate degree from the prestigious Purdue University. He came to Canada over five years ago, could not do what he wished to do and eventually, on July 21, 2006, he leapt from a bypass.

The Chair: You have about a minute left.

Mr. Naqvi: Thank you.

I submit that this is a human issue. I believe that, yes, numbers may be important to people out there in the House, especially when a provincial election is around the corner. So let me submit this: In the GTA we have

more than 51% of Canadian citizens who were not born in Canada. The majority of them have been directly or indirectly a victim of unfair registration practices. If this issue is not dealt with honestly, if these amendments are not incorporated in the bill, then we may see a political upheaval this province has never seen before. This is the time to win hearts, not just votes. Let's do the right thing.

The Chair: Thank you very much, Mr. Naqvi. Unfortunately, there is no time for questions to this witness, but we do appreciate your comments. Thank you for coming in today to share them with us.

Mr. Naqvi: Thank you for the opportunity.

0920

COLLEGE OF MEDICAL LABORATORY TECHNOLOGISTS OF ONTARIO

The Chair: Next we have the College of Medical Laboratory Technologists of Ontario. Tina Langlois and Lynn Yawney, welcome. As you've seen from the previous presentation, you'll have about 10 minutes—exactly 10 minutes, as a matter of fact, but that will include any time for questions, so if you're hoping to get some questions from the members of committee, you'll need to leave a little bit of time at the end of your 10 minutes, okay? Welcome, and please start whenever you wish.

Ms. Tina Langlois: Thank you, Madam Chair, members of the committee. My name is Tina Langlois. I'm the director of investigations and hearings at the College of Medical Laboratory Technologists of Ontario. Sitting with me is Lynn Yawney, who is the deputy registrar of the college. Unfortunately, our registrar, Kathy Wilkie, was unable to attend today due to scheduling conflicts.

What I have provided to the clerk is a copy of our submissions made to Minister Colle, dated October 31 of this year. I would be happy to provide those in electronic format to the clerk upon my return to the office for your use.

We appreciate the opportunity to address you this morning about Bill 124. First, a little bit about ourselves: The College of Medical Laboratory Technologists of Ontario is a regulatory body for over 75,000 medical lab technologists in Ontario. The college was created as one of the 21 health colleges under the Regulated Health Professions Act. We register approximately 300 new MLTs annually, 40% of whom are internationally educated. We take great pride in our registration processes and practices, which we feel achieve an appropriate balance between protecting the public of Ontario by ensuring that only competent MLTs are registered to practise while still being transparent, objective, fair and impartial. To illustrate this point, I'll provide you with a few of our statistics. In a seven-year period running from 1999 until 2005, a total of 856 applications were referred to our registration committee, and that means applications that weren't approved immediately on their face by the registrar. Of those 856 applications over a seven-

year period, 835 were approved for registration, so clearly that system is working well for most of the applicants involved.

Of the individuals who were refused registration, only seven filed appeals to the Health Professions Appeal and Review Board. It's notable that we do have an independent, objective third-party appeal of our processes. Of the seven individuals who accessed that process, HPARB—our appellate body, if you will—only returned three of those to the registration committee for reconsideration. It's also notable that though HPARB has the authority to register people directly, they did not choose to do that in any of the seven appeal cases. We feel that speaks volumes for the fairness and transparency of our process and the requirements and criteria for registration for MLTs in Ontario.

We share your commitment to ensuring that registration practices and processes are fair, transparent, objective and impartial, but we are concerned that Bill 124 will have quite the opposite effect. To put these submissions in context, it's important to remember that Bill 124 is the government's response to Mr. Thomson's wide-sweeping report of registration practices for regulated professions.

The stated purpose of Bill 124 is to help ensure regulated professions are governed by practices that are transparent, objective, fair and impartial. Fair practices are defined as including:

- the provision of information to applicants;
- written decisions and reasons issued in a reasonable amount of time;
- reviews or appeals available within a reasonable amount of time;
- publicly available information on documentation;
- objective, transparent, fair and impartial assessment of qualifications;
- trained assessors and decision-makers; and
- access by applicants to records held by regulatory bodies with respect to their applications.

We think it is also noteworthy that the one exception to Mr. Thomson's recommendations that's not included in Bill 124 is the one we feel is most important and allows our processes to be as fair, objective and reasonable as they are, and that is an independent appeal. Mr. Thomson identified an independent appeal as a cornerstone of fairness and we believe that that is, in fact, the case and that's why that process is enshrined in the Regulated Health Professions Act.

We support all the goals of Bill 124 and we believe our registration process has already achieved them and will continue to ensure that the public of Ontario is protected because that is our job at the end of the day.

Our registration decisions, like those of all RHPA colleges, are subject to independent appeal at HPARB. Applicants have the choice of a hearing or a paper review, so there's no necessity to even appear in person at that appeal. You do not require legal counsel to file the appeal, and there is no cost to file the appeal. We feel that all of these elements certainly add to the fairness and objectivity of the process.

Our registration practices are outlined in detail in the submission, and given the short time this morning, I won't go into them. But certainly, if you have any questions regarding what's contained, I'd be happy to provide you with additional information. I just want to point out that the college's registration processes in fact mirror the objectives of Bill 124.

If we are all in favour of the goals and the aims of this legislation, why are we speaking against it? Because we do have some very serious concerns about what might be the unintended impact of these amendments that are being proposed to the Regulated Health Professions Act.

We feel that the amendments to the RHPA are unnecessary, as they prescribe activities that are already being undertaken by the college and they impose duplicate reporting obligations, which will obviously be resource-intensive.

It's important to remember that regulatory colleges rely on registration fees to fully support all programs. Costs incurred to comply with Bill 124 will, by necessity, be borne by applicants. In some cases, we're concerned that what's being proposed may also lead to a conflict with either existing provisions of our legislation or our registration regulations, which are passed under the Medical Laboratory Technology Act. I'm quite sure that in time, these conflicts would be sorted out by the courts in a reasonable fashion. However, to get to that clarity, it would cost both the college and the applicant an enormous amount of money. I'm sure that's not what this bill intended.

Finally, we're concerned about the impact of the Bill 124, what the impact might be on our mutual recognition agreement, which was negotiated to comply with the agreement on free trade across Canada. We're not sure what the implications might be, but we're concerned that that might affect that agreement.

We believe our practices are already transparent, objective, impartial and fair. The fact that decisions may be appealed to the HPARB ensures that those principles are upheld. In the end, it's not clear why the amendments to the RHPA are being proposed or what they're attempting to remedy. It would appear that the purpose of the audits being proposed by Bill 124 is to ensure the registration requirements are appropriate and registration practices are, as stated, fair, objective, impartial and transparent. We would strongly argue that these goals are already achieved by the processes enshrined in the Regulated Health Professions Act. All criteria for registration are contained in regulations which are vetted extensively by ministry staff before they're promulgated. To impose additional requirements in the form of an audit would add costs to the process and consume valuable resources.

We are also concerned that the results of an audit or the advice of the fairness commissioner to the Minister of Health may be raised at a registration appeal. If that advice or recommendation varies in any way from what is prescribed in law and in regulation, we will once again find ourselves in a conflict situation that will require the

court's intervention to clarify, at great cost to all parties involved.

Bill 124 proposes to require RHPA colleges to submit what's called a "fair registration practices report" at least annually. We would argue that the colleges report annually through the Ministry of Health under the RHPA and are required to do so. Any criteria that the ministry wishes to have covered could be covered in those reports that are already existing without adding an additional layer of reporting.

In conclusion, our main concerns are duplication and potential conflicts that will make demands on already scarce college resources. These costs will have to be passed on to registrants and applicants, which will not make Ontario an attractive place for health professionals. Particularly in this era of global shortages, we are concerned about adding to the financial obligations of becoming a regulated health professional in Ontario. We believe that our practices are currently fair, objective, impartial and transparent and, additionally, are subject to sufficient scrutiny and review under the current system, both by the Ministry and by the Health Professions Appeal and Review Board. We believe the solution is for the Ministry of Citizenship and Immigration to work in co-operation with the Ministry of Health staff to ensure that colleges reporting to the ministry cover the areas that are covered in Bill 124.

It is for all these reasons that we would strongly recommend that the amendments to the RHPA that are proposed in Bill 124 be removed.

Thank you very much for your time this morning.

The Chair: Thank you very much. You've left just about half a minute, so I don't think that there's actually time for any questions. But you did make your points, I believe, and I want to thank you very much for coming to raise the issues with the committee today.

Ms. Langlois: Thank you very much.

0930

FAIR ACCESS COALITION

The Chair: Next on our list we have COSTI Immigrant Services—Fair Access Coalition. Is there anyone here from COSTI? Welcome. Come and take a seat at the end of the table. You've noticed that there is a 10-minute presentation time frame. If you leave any time within that 10-minute time frame, the members of the committee can ask you some questions. So begin, please, by stating your name for the purposes of our Hansard recording.

Mr. Mario Calla: My name is Mario Calla. Thank you very much, members of the committee, for this opportunity to convey to you on behalf of the Fair Access Coalition our position on Bill 124. I am the executive director of COSTI Immigrant Services, a community service organization that has been providing settlement and integration services to immigrants and refugees in the greater Toronto area for the past 54 years. COSTI is a member of the Fair Access Coalition. The coalition is a network of 67 agencies serving immigrants in Ontario

which came together specifically to support Bill 124 and to ensure that it becomes law. Members of the coalition provide services to thousands of immigrants in communities from Windsor to Ottawa and have been holding public fora to educate the public and to promote support for Bill 124—we feel that strongly about it. The names of the coalition members are appended to this submission.

I will not retell the sad and painful stories of the many immigrants who are failing to integrate successfully to our economy, as those stories are well known to you. However, the result is that poverty rates amongst immigrants in Toronto have grown by 125% in the 20 years between the 1981 and 2001 censuses compared to 14% for the general population; this, at a time when Ontario is getting the best and brightest cohort of immigrants in its history. Many of these unemployed and underemployed immigrants are well qualified to work in a regulated profession and are passing Canadian entry exams but are then denied internships or other qualifying standards that effectively shut them out of the profession. We can say unequivocally that not one of these thousands of internationally trained individuals who have come to our agencies for assistance have said that regulatory bodies should ease or lower their standards. They understand that regulatory bodies have an obligation to maintain standards that protect the public. What they do want is fair and equitable entry criteria into the profession. Bill 124 addresses this issue directly, and it is for this reason and because of the impact on the livelihood of internationally trained individuals that we believe the bill should be proclaimed into law without delay.

We also urge your committee to recommend the bill to the Legislature as written. This bill represents one of the boldest attempts by the provincial government to address inequities that confront newcomers. We are concerned that delays will continue to compromise opportunities for internationally trained individuals. Unfortunately, there is a long history in this province of missed opportunities and half-hearted attempts to address issues of importance to immigrants. As long ago as in 1989 the Ministry of Citizenship, Culture and Recreation released the task force report on access to trades and professions, which was also meant to address this issue. There was much hope and anticipation that the important recommendations contained therein would be executed. It took 11 long years before one of the recommendations was realized, with the establishment of an academic credential assessment service. This cannot be allowed to happen to this legislation. All three political parties need to declare their commitment to ensure that Bill 124 receives final reading during this session of Parliament.

With regard to proposed amendments to the bill, much has been made of the fact that Bill 124 does not contain some of the recommendations made by George M. Thomson in his report entitled *Review of Appeal Processes from Registration Decisions in Ontario's Regulated Professions*, released by the Ministry of Citizenship and Immigration last year. More specifically, it has been proposed that the bill incorporate the establishment of

independent regulatory appeals tribunals and a fair registration practices code. What has been ignored by critics is that Bill 124 replaced these recommendations with a fairness commissioner and a set of fair practices principles to achieve the same result.

The fair practices principles are outlined in Bill 124, part II, article 5, as “registration practices that are transparent, objective, impartial and fair.” They are further specified in part III, article 6, where a regulated profession is required to provide information about its registration practices, where said information is to be provided in a timely fashion and where the regulated profession is to specify any related fees.

Section 7 goes on to require a regulated profession to ensure that decisions are made within a reasonable time and that written responses are provided within a reasonable time.

Section 8 requires a regulated profession to provide reviews or appeals of its decisions within a reasonable time. It also requires a regulated profession to provide an applicant with the opportunity to make submissions with respect to a review or appeal.

These are some examples of fair practices principles contained in Bill 124 that replaced the fair registration practices code. The intent is to have these principles enforced by a fairness commissioner, who is empowered by the bill to have regular compliance audits conducted of the regulated professions, to set audit standards for these audits and to make compliance orders. These practices and the enforcement role played by the fairness commissioner should mitigate the need for an expensive and adversarial appeals mechanism.

Another welcome feature of Bill 124 is the establishment of an access centre for internationally trained individuals, which would provide information and assistance to internationally trained newcomers. This is another initiative that responds to concerns about the complexity of the transition to employment for newcomers and the lack of coordination and information about available resources. As service providers, we know that the labour market is a moving target, and that current and reliable information for consumers is difficult to maintain. A centralized service like the access centre that would focus on the needs of internationally trained individuals would be a welcome and valuable resource.

In conclusion, the Fair Access Coalition believes that Bill 124 represents a bold step forward in correcting inequities and unfair practices faced by internationally trained professionals. The bill is balanced and effective. We urge you to support it and to recommend it for third and final reading.

Thank you for the opportunity to present our position to you today.

The Chair: Thank you, Mr. Calla. You’ve left about four minutes, so I’ll start with the opposition in terms of asking any questions.

Mr. Klees: Thank you, Mr. Calla. I appreciate your presentation today. I find it interesting: You sound like an apologist for the government on this bill.

Mr. Sergio: Come on, Frank.

Mr. Klees: That’s fair. But you start your presentation by setting out the difficulties of access to these professions, and we know there are a number of very specific amendments that are being proposed to make the bill more specific.

If you go through this bill, there is a recurring theme here of, “We’re going to study it; we’re going to review things; we’re going to set up additional bureaucracy.” There is very little in this bill that speaks to the practical implementation of processes. Why do you feel, for example, that it’s then appropriate that the bill not require the implementation of many of the very specific recommendations made by Thomson? You’re defending this generality, and I would like to know why. Would it not be better for your clients if this legislation had many more specifics that people could count on?

Mr. Calla: There is, I guess, an issue around balance that one needs to strike between the independence that, obviously, a regulatory body needs to have to protect the public and an intervention that will ensure that the internationally trained have fair access to that profession. When we look at this bill, the kinds of principles the bill espouses are really about the entry criteria. It has nothing, of course, to do with the kinds of standards the profession itself sets for its members. It has to do with the entry criteria. This bill sets out principles. The biggest problem that internationally trained professionals have had has been in understanding how to make an application, what the process is, how the decision is made, what rights they have, and this bill sets those principles out. I did speak to Judge Thomson about the difference between his recommendations in this legislation. I note that he said—and he has been quoted publicly—“This legislation represents a thoughtful and balanced approach to resolving long-standing issues.” So sure, he did recommend an appeals mechanism, and many of the regulatory bodies have that, and he did recommend principles, but I think the principles are in this legislation. This is why we feel the need, Mr. Klees, to move on this legislation. As I said in my presentation, we’re concerned that given the long history of delays and lots of talk and no action, it’s really important to move on it.

0940

The Chair: We have about 15 seconds, so if you want to make the last comment, then do so, and then we’re done.

Mr. Klees: Let me be clear: We want to move on it as well, but when we move on it, we want to make sure it is going to actually deliver what it purports to. The constant referrals throughout this legislation that responses are to be provided “within a reasonable time,” if you don’t define what that reasonable time is—I’m sure right now many colleges say they are responding in a reasonable time. What we want to do is to ensure that there is not just a political document here but that it works for your clients, that it works for newcomers. We feel there’s a great deal of detail that’s missing here. It could be firmed up considerably without compromising the independence

of the regulatory bodies or the standards. Your comments?

Mr. Calla: I think we want the same thing. Clearly, we're moving in the same direction. Our issue—

The Chair: I'm going to have to interrupt. If we go on to any great extent, we're going to really back up our time, and there are many people here who have come to give presentations to the committee. So I thank you for your comments. Since you're more or less affirming the need to address the issues for clients, I think we should probably move on.

Thank you very much, Mr. Calla. It's unfortunate that our time has run out. We appreciate your presentation and thank you for coming to make remarks to the committee this morning.

POLICY ROUNDTABLE MOBILIZING PROFESSIONS AND TRADES

The Chair: Our next presentation is from the Policy Roundtable Mobilizing Professions and Trades. If we have representatives, please come to the table. As you're getting comfortable, you'll know that we have 10 minutes for your presentation. I'll be rotating the questions amongst the parties. Please begin your presentation by stating your names. Welcome, and thank you for coming in.

Ms. Uzma Shakir: Thank you very much for this opportunity. My name is Uzma Shakir. I'm the executive director of the South Asian Legal Clinic of Ontario. I'm also one of the founding members of PROMPT. Lele Truong is the membership coordinator for PROMPT right now.

Let me just give you a bit of background about PROMPT. Policy Roundtable Mobilizing Professions and Trades—rather a mouthful—was created about four or five years ago as a civil society public policy advocacy group that can act as a partner with the government and regulatory bodies to create solutions, essentially. Our membership is made up of immigrant professionals, immigrant professional associations like the doctors' association, the engineers, the urban planners, the pharmacists, the nurses etc.—advocacy groups that have an interest and experience in advocating on behalf of immigrants and refugees in terms of access to professions and trades, and the settlement sector, which provides employment services to immigrant professionals.

One of the first things we did was publish a report called *In the Public Interest*, and one of the things we asked for in that report was to establish certain baseline principles, which I think are in your handout, that would address the systemic barriers in the registration process. They are basically relevance, consistency, transparency, timeliness, affordability, accessibility, respect and defensibility.

Just purely for historical interest, it was at the launch of PROMPT's report, *In the Public Interest*, where the keynote address was given by the Honourable Mary Anne Chambers, who was at that time the Minister of

Training, Colleges and Universities, that she announced the establishment of the Thomson commission. So there is a rational and reasonable expectation on our part—in fact, when Judge Thomson started his deliberations, the first group of people he spoke to were our members. For instance, the AIPSO doctors—the Association of International Physicians and Surgeons of Ontario—the Council for Access to the Profession of Engineering, the geologists, the urban planners, the South Asian advocacy groups and the Chinese advocacy groups all made submissions to Judge Thomson and his commission as part of his deliberations.

On one hand, we are terribly gratified that the government of Ontario has taken the opportunity to actually implement a bill which takes into consideration some of the concerns we had raised. However, I do agree with Mr. Klees. Our concern is not that we don't need the bill; of course we do. I disagree with my regulatory colleagues earlier who were saying there's going to be duplication. Quite frankly, tell the neurologists who are driving cabs whether duplication is good, bad or indifferent. I have met way too many neurologists who are driving cabs to actually care whether there's duplication. If duplication is going to lead to equity, to hell with it—let's have duplication.

As far as I'm concerned, the issue with this bill is not that the intent is not there or the language, but that the language is way too discretionary. The language is not mandatory enough. It uses terms like “may” and “if” and “reporting.” It does not say “should” and “shall.” For instance, it creates an opportunity for the fairness commissioner in the process of assessing qualifications to monitor third party interventions but it doesn't do so for the internal review. You know what? I have no doubt that the registration bodies have no particular reason to keep immigrant professionals out. Hey, the more, the merrier. But as far as I'm concerned, the road to hell is paved with good intentions. We want outside intervention. An immigrant professional needs to be able to see that fairness and justice are being done, not that the intent to fairness and justice is there. Intent has led us nowhere. Too many immigrant professionals are lying on the sidelines waiting, having their careers completely destroyed because the intent to fairness is there but it's not being implemented.

First of all, we should have an independent appeals process, but if you're going to have an internal review process and you're going to make sure that the people who are making decisions around registration are not the same people who are sitting on the internal review process, why don't you introduce third party intervention? After all, that stipulation is included in terms of qualification assessment.

For instance, there is a whole section on why the registration bodies don't have to release the records. If an applicant wants to appeal and the applicant wants access to records, there are certain limitations. You're telling me that an individual professional now has to have the legal qualifications without any support, without any legal

representation, without any governmental support in terms of having legal representation to determine whether the registration body is meeting the limitations of this particular act in terms of not releasing their records.

Surely the fairness commissioner can do that. Give the fairness commissioner more teeth. Right now, the fairness commissioner is saying, "I will establish the principles. I will make sure that you do your audits." We are not just interested in audits; we are interested in outcomes. Quite frankly, at the end of the day, you do an audit, but the outcome is no different for us than it used to be. Our constituents don't buy that. As far as they're concerned, they want an audit of outcomes. They want to know, "When I apply and I go through the process, what is it that I didn't do right? What is it that I needed to do? And why is it that I didn't get in but another person did?" People should not have to worry about this. If you're competent and you're qualified, if you sit an exam and you pass an exam, you should have a rational expectation that you will get into the system.

Now for some registration processes, I realize employment is not attached to the registration itself, but, for instance, in the medical profession it is directly involved. If you don't go through the registration process, if you don't get a licence, you can never practise. That's like saying, "You are not allowed to make a living on the basis of what you trained for."

Now it may not be the same for engineers. I understand there may be classes, and I think there is a stipulation in here which talks about classes, but as long as the principles of equity, relevance, consistency, transparency etc. are being met, we have no problems with that, but it should be commensurate to what impact the registration and licensing process would have on an individual's ability to make a living. At the end of the day, you don't want a licence to hang on your wall. You want to be able to put food on the table for your children.

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The other problem I have with this bill—I'm supporting the bill, by the way—is the fact that immigrant professionals come from a hundred different countries. The registration bodies know only the Canadian standards. They do not have the qualifications, nor do they have the knowledge base, to determine what the immigrant professional is bringing. We are very quick to say how immigrants are deficient, but we have no competence to say where the immigrants actually have proficiency, because we have no way of knowing.

I would recommend that we create a clear-cut system within this legislation where that particular capacity can be created. Don't tell me, "You have gotten a degree from Madras and therefore you cannot practise in Ontario." What the hell do you know of Madras? Do you know Madras? Do you know what the standards are in Madras? And if you don't, isn't the responsibility of the government to set up an independent process where people can actually have a rational expectation, understanding and capacity to understand what immigrant proficiency is rather than how immigrants are deficient

vis-à-vis some Canadian standard? Then we can establish things like transferable skills. Then we can establish things like, "You bring this, we need this," and there is a direct connection or we can make that reasonable connection.

My particular peeve with this bill is not that the bill's intent is wrong or that the bill is not sufficient, but that it doesn't have teeth. If you are going to set up a fairness commissioner, for God's sake give him some legs to stand on. Make some of the language mandatory and less discretionary and take away the circular arguments. Thank you very much.

The Acting Chair (Mr. David Levac): Thank you very much. You've timed that beautifully. There are 30 seconds left, and I believe that we'll pass on comments. I appreciate it very much.

ONTARIO COLLEGE OF TEACHERS

The Acting Chair: At this time I'd like to call upon the Ontario College of Teachers for their deputation. All deputants have been assigned 10 minutes. If you'd identify yourself for the record and introduce both people in case they both get into this, please do so. Thank you.

Mr. Don Cattani: Thank you very much for this opportunity to speak with you today regarding Bill 124. My name is Don Cattani. I'm the chair of council for the Ontario College of Teachers, and I'm joined today by Brian McGowan, our registrar and chief executive officer.

The Ontario Legislature had delegated to the college the authority to license, govern and regulate Ontario's teaching profession. It is our duty to register and certify college applicants as members and to address concerns about members' professional conduct, their competence and their fitness to practise. First and foremost, though, it is our duty to serve and protect the public interest. We have more the 206,000 members, and the Ontario College of Teachers is Canada's largest self-regulating professional body.

Let me begin by saying that the college fully supports the objectives and principles of Bill 124. We welcome this initiative, in large part because we already practise most of the requirements anticipated in Bill 124. As an example, college applicants who have been denied certification have the right to appeal. Our registration appeals committee reviews an applicant's qualifications against the criteria for regulation with the college, and that committee has the power to direct the registrar to issue a certificate of qualification with or without conditions or limitations. When asked, the registration appeals committee must grant a review, provided that request is not frivolous, vexatious or an abuse of power.

Last year, the committee heard 34 appeals, down a little bit from 55 in 2004. Of those appeals heard last year, four original decisions not to certify the individual were overturned and eight were modified—proof, we believe, that the appeal process can and does work for applicants. Of the 243 college applicants who were

denied certification between 2001 and 2005, almost 40% subsequently met the requirements with our guidance and have since been certified.

Put that in context: We certify over 12,000 new teachers a year. That's a number larger than most of the other regulatory bodies. Last year, almost 1,600 of those people were internationally educated. The college provides considerable pre-application information and assistance on its website and through detailed registration guides. A separate section of the college's website is dedicated to internationally educated teachers. It details how to register, the documents required, what needs to be translated and how to obtain statements of professional standing. In our submission I direct you to appendix A for an example of that website. Our website also provides country-specific information about academic requirements in more than 100 countries, samples of which can be found as attachments to our report, and we have created a comprehensive list of answers to frequently asked questions.

Also, once a month, the college holds information sessions for internationally educated teachers in our offices. In addition, applicants may request to meet with staff in our membership services department to find out more about the evaluation processes and registration requirements.

Notwithstanding all of this, and while we're in general support of this government initiative, we nevertheless believe that Bill 124 can be improved and consequently should be amended. This bill leaves many important details yet to be defined in regulation. Its proposed changes provide sweeping authority over regulators without acknowledging the unique differences in the professions they govern or the processes they use.

A number of the bill's provisions conflict directly with our enabling legislation and statutorily created obligations. For example, the bill needs to recognize that a regulator's paramount duty is to protect the public, including setting requirements for registration based on competency. Bill 124 adds a potentially confusing array of reporting obligations and an order-making power that offers little procedural protection for regulators. The bill should state explicitly what fairness and other key principles actually mean. Furthermore, we believe it should define fairness in a manner that acknowledges that differences will exist in the practices and criteria used to assess those who apply for registration.

The phrase "transparent, objective, impartial and fair" appears throughout this legislation. That phrase needs to be defined, particularly if our actions and registration procedures are to be monitored and assessed against those standards.

Similarly, we're not sure what is meant by "other processes" when describing options to appeal a registration decision. It could mean rehearings, reconsideration, review. It might range from a documentary review all the way to a court-like hearing. What will be used, or in what circumstances would one be preferable to another? The bill needs to spell some of these things out.

The bill should also make it clear what alternatives to documentation the government advocates for registration purposes. It should be clearly understood that regulators will continue to determine the requirements that must be met to ensure the competence of the professionals it is going to regulate.

The Ontario College of Teachers is unique among regulators. We license teachers based solely on their documented academic qualifications. We do not assess competency based on demonstrations of skills or abilities. Documentation is not just a procedural issue; it's closely tied to the substantive requirements the college has set for registration provided for in regulation.

Right now, the college abides by laws and regulations that set different requirements for internationally educated teachers. Ontario-trained teachers must meet very strict criteria before we can certify them. Internationally educated teachers, on the other hand, must demonstrate that they have completed a program that is acceptable to the college. This gives us the discretion to accept teacher education programs completed abroad that do not meet all the requirements of an Ontario program. For example, teacher candidates in Ontario must complete 40 days of supervised practice teaching to become certified, generally referred to as a practicum. However, we will accept the experience of an internationally educated teacher who has taught for a year in another jurisdiction in place of the practicum.

As written, Bill 124 would supersede the college's enabling legislation and would encroach on the autonomy and ability of teachers to regulate their own profession. The bill does not say what measures the commissioner will use to assess the regulators' processes, nor does it limit the commissioner's oversight to registration practices.

Bill 124 also needs to identify a particular method of reporting or audit that is clearly defined, directed at the objectives of the legislation and based on consultation with the regulators.

Finally, the college believes that Bill 124 should provide full procedural protection for regulators facing orders by the commissioner and that regulators should have the right to appeal. As written, this bill would allow regulators only a limited right of appeal of a decision by the commissioner.

Bill 124 would have regulators prepare a fair registration practices report annually for the fairness commissioner, but the college already reports annually to the Minister of Education. This report is submitted to the Lieutenant Governor in Council and tabled in the assembly. Among other information, our report always includes registration appeals committee data.

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Bill 124 would permit an auditor to review confidential applicant and member files. This access to confidential information would contravene the Ontario College of Teachers Act.

The Ontario College of Teachers takes its legislated mandate to protect the public interest very seriously. In

our nine and a half years, we have licensed close to 100,000 teachers. We have a strong history of providing support to internationally educated applicants and have designed registration and information processes specifically for them.

We are heavily involved in Teach in Ontario, so that with the support of the provincial government and in partnership with the Ontario Teachers' Federation and community groups, we can help internationally educated teachers understand Ontario's education system and get qualified to teach here.

We believe that Ontario classrooms should reflect our multicultural society. We believe that children need to see faces similar to their own as teachers and as professional role models. And we support registration processes that are fair, transparent, objective and impartial.

Acquiring a licence to teach is only the first step. Our data show that finding work as a teacher presents far greater challenges to new Canadians. In fact, some wait up to five years to find full-time work in Ontario schools, but that's another issue for another time.

In closing, the Ontario College of Teachers believes that Bill 124 should be consistent with the principles of self-regulation and that it should preserve the jurisdiction of regulators to set the requirements for entry to the profession.

We would be pleased to offer further comment, advice and support to the government as it proceeds, and we are happy at this time to answer any of your questions. Thank you.

The Acting Chair: Thank you very much for your presentation. You've left us with one minute. I believe our last rotation was with Mr. Klees, so I'll move to Mr. Tabuns for one minute.

Mr. Tabuns: Thank you for the presentation. In talking about defining the audit process, could you give me a better sense of what you would see as clarity for the definition?

Mr. Cattani: In true chair fashion, I'll pass it to the registrar.

Mr. Brian McGowan: What we would be interested in seeing is a clear elucidation of what the requirements would be for audit. Is it going to be a compliance-based audit? Would it be a best-practices-based audit? And what would be the level of documentation required to demonstrate that either compliance had been met or that procedural fairness had been guaranteed?

I would go back now to our chair's comments. We completely support processes which are fair, transparent and accessible, but in the absence of a definition of what constitutes those terms, and if an audit means compliance with those terms, we don't know what the burden of proof would be on us to demonstrate that in fact it had either been met or exceeded. It comes back now to the importance of definitional clarity.

The intent is laudatory. We completely support the intent, but if we are to be audited against those as measurable outcomes, we need precise indicators of what that constitutes, because, frankly, we believe overwhelmingly that we meet that case now.

The Acting Chair: Thanks very much for your presentation. We appreciate that. Thanks for coming.

ASSOCIATION OF PROFESSIONAL GEOSCIENTISTS OF ONTARIO

The Acting Chair: Our next deputant is Dr. Williams from the Association of Professional Geoscientists of Ontario, the registrar and executive director. If you're bringing anyone else, please make sure you identify them. Identify yourself for the purposes of Hansard, and you may begin when you are prepared.

Dr. Norm Williams: Thank you. I appreciate being invited to speak on behalf of my association on this proposed legislation. First of all, I have to apologize for the fact that I have no distribution for the committee because I was just alerted last night about the confirmation of being present here.

I just want to start off very briefly by pointing out that I've been involved with registration with a large association and with this new association, which is much smaller, for the last 10 years. The Association of Professional Geoscientists of Ontario is relatively young compared to the other regulatory bodies in this province. We currently have about 1,200 licensed members. The members of our registration committee span the spectrum very widely, representing internationally trained geoscientists across the globe. APGO, from our vantage point and based on feedback, is seen to be very inclusive, and if you look at the legislation, there are no requirements for residency in Ontario and so forth.

One of the other points I would like to make is the fact that we have, if you will, somewhat of a different stream, the way we deal with internationally trained applicants versus Canadian graduates. Our legislation gives us the right to look at the sum total of experience gained overseas. One of the overriding requirements is that an applicant, including a Canadian graduate, has to have at least 12 months' experience in a Canadian or equivalent environment. It doesn't mean that the applicant has to be physically on Canadian soil, but they must have worked or interacted in an environment where it can be demonstrated that the familiarity with standards and codes as it pertains to the Canadian environment has been observed.

I'd like to again point out our unequivocal support for the intent of the proposed legislation. What we find from our vantage point, and it has been articulated earlier, is the lack of clarity. One of the things that I think would be forthcoming is looking at the development of regulations to support this act. We would appreciate the opportunity for consultation with APGO in this regard.

Although we think we have mastered and have many of the mechanisms in place, we have begun to review our practices consistent with the requirements of the bill. To also emphasize and point out APGO's interest in the admission of the internationally trained, we have demonstrated this by our recent partnering with the Ministry of Citizenship and Immigration's program, with the Toronto and Region Conservation Authority, whereby we are

working with that group to select a bunch of internationally trained geoscientists to afford them the opportunity of gaining the Canadian experience component, which turns out to be one of the most crucial requirements for licensing. Again, that was our debate earlier, that we look at the skeleton, but then put flesh on what's important from the standpoint of integration in a complete sense and the contribution that we can appreciate being brought forth by internationally trained geoscientists.

Just a very general comment from our vantage point: When we look at the proposed bill—and we are all sure that a lot of thought was put into it—we take issue somewhat with the term “fairness commissioner.” We think it might send the wrong message to a prospective internationally trained individual. That's something I just thought I would want to put forward at this point.

The next point I have here in my prepared notes makes particular reference to part VI of the proposed legislation. One of the things we're looking at is the fact that subsection 18(1) talks about regularly reviewing the registration practices and reporting the results to the commissioner. It goes on to talk about the need for annual reporting. Again, I think I'm looking at this strictly from our vantage point, from our standpoint, in terms of costs and so on. If we have satisfied this, and the reporting and whatever else is required by the commissioner, the audit is something that we have some concerns about, particularly the fact—and, again, it was mentioned by the previous speaker—that it lacks clarity in terms of what would be required and some sort of a one-size-fits-all kind of thing. We have some concerns as to what that means. We see the regular reporting as something that may preclude the need for an audit in the sense that we consider audits to be.

I'd just like to finally reiterate APGO's support for the intent and aim of this legislation and our anticipation of the regulations to be developed to support this bill. Again, we feel that we are available for any kind of consultation the committee might have in moving forward. Thank you. I'm prepared to answer the questions that you might have.

The Acting Chair: Thank you very much, Doctor. I appreciate that. Just a point before we move on: If you'd like to provide us with a written proposal, I'm sure the committee would accept that in terms of the time constraints you had in preparing those notes, so if you'd like to recapture your notes in a final document, you can submit it to the clerk.

Dr. Williams: I appreciate that. Thanks.
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The Acting Chair: We have approximately four minutes, so I'll rotate that through, commencing with the government side.

Mr. Ramal: Thank you, Doctor, for your presentation. It's very important to carry on with this bill. I think you'll probably agree with me that it's unique, it's one of a kind in Ontario in addressing this issue. Many people, before this government, talked about it but nobody acted on it. Finally, we have a government where

a minister took this bill and is trying to address it in a professional fashion in order to break the barriers facing many foreign-trained professionals.

I know your concern about an audit and a fairness commissioner. You say, “We are fair. Why are you applying that title and the audit?” But I want to tell you something very important. Hopefully, you'll agree with me. If your conduct is perfect and there is no problem, I don't see that the fairness commissioner is going to object to your audit, which you apply on a regular basis to your professions or your ministry, or which you do on a regular basis. Do you see any contradiction in this matter?

Dr. Williams: I agree with you, but what we're saying is that the name “fairness commissioner,” from our vantage point, might send the wrong message to prospective persons who would like to appeal. We're saying, “registration assessment commissioner” is maybe an example of what we might want to look at, or something similar. “Fairness” is the underlying problem here. Maybe something might not be fair. I'm just pointing out a caution based on what we've looked at in terms of, again, the experience I bring, having dealt with internationally trained individuals in another organization and also in my current responsibilities.

Mr. Ramal: How about the audit?

Dr. Williams: Again, looking at the fact that the commissioner has the right to have annual reports, and reports at any time that he or she sees fit, it seems to me that an audit would be redundant in this process. This may be due to the fact that it has not been stipulated or pointed out very clearly in the document what the audit will entail. What kinds of standards are we looking at? Are we looking at best practices, for example? What does it mean? So, again, from our standpoint as a young organization, the main thing is the prohibitive costs that an audit might foist upon APGO, and indeed some of the other sibling or regulatory bodies. Again, it's looking at what more we could get with an audit than we could from periodic reporting.

Mr. Ramal: The audit is going to be almost similar to what you do on a regular basis with your professions. Of course, any organization across Ontario has to do some kind of auditing or report to their professions. So I think the fairness commissioner is not going to ask for more if your profession is doing it according to the fairness commissioner, fairly and according to the profession. It's not going to ask them for extra audits or extra expenses to report them.

Dr. Williams: If I might, the issue is not with the audit; it's the cost attendant with the audit. That's the issue, especially when it's not well defined as to what the audit will entail.

The Acting Chair: I would come to Mr. Klees.

Mr. Klees: Dr. Williams, I appreciate your presentation. I think the parliamentary assistant is getting to your point, and that is, if he is having to explain to you what an audit won't be, there's a problem, because what you're asking for is clarity in terms of what it will be and

what the cost is going to be and the burden to your organization.

You made a very interesting reference to what I conclude is the effect of Canadian job experience equivalency, that what you include in your profession is not only an equivalency of credential, but you realize that the first thing people are going to be asked for is what is their Canadian job experience. So what I would like you to do, if you wouldn't mind, when you submit your written report, is include some details about how you rate that Canadian job experience equivalency. I think this is key. I think there's a problem that there is a great deal of expectation on the part of people watching the process of this bill that somehow this bill is going to give them access to jobs, and we know that is not the case at all. What it will do is put in place some system to provide them, perhaps, if we get it right, some greater access to registration of their credentials. But the real key is what are the steps that are going to be taken by the government to create access to a job? I think this Canadian job or work experience equivalency may have to be a very important aspect of implementation here. If you've worked in your profession or any profession in another country for 10 or 15 years, and we can't translate that work experience into the Canadian equivalency of work experience, you might have all the registration in the world, and people will still say, "What is your Canadian work experience?" They have none, and you're right back to where you were before. I'm very interested in hearing from you on that. I think it could be one of those very practical steps that need to be taken by the government.

Dr. Williams: APGO recognizes this, and of course, that's one of the reasons why we're willing to partner with the government, for the other people who might not have that experience in this paid program, to help them to integrate into the Canadian or the Ontario fabric, if you will. I think it's a very optimistic and very ambitious approach. That's one of the reasons why we recognize this and we're willing to partner with the TRCA in this initiative.

The Acting Chair: Thank you very much. We are out of time, Mr. Klees. Thank you, Dr. Williams. We appreciate your presentation.

CHINESE CANADIAN NATIONAL COUNCIL TORONTO CHAPTER

The Acting Chair: I would now call upon the Chinese Canadian National Council Toronto Chapter, Karen Sun, the executive director. Introduce yourself for Hansard, and if there are any guests with you, please introduce them as well. Start any time you feel comfortable.

Ms. Karen Sun: Hi. My name is Karen Sun. I'm the executive director of the Chinese Canadian National Council Toronto Chapter.

The Chinese Canadian National Council Toronto Chapter is an organization of Chinese Canadians in the

greater Toronto area that promotes equity, social justice, inclusive civic participation and respect for diversity. We are a member of the city of Toronto's working group on immigration and refugee issues that has been discussing the issue of immigrants' access to professions and trades. We would encourage the province to develop a dialogue with existing committees and advisory groups such as this, as well as with the city of Toronto, which has shown leadership and commitment related to this issue, particularly considering the new powers allowed under the new City of Toronto Act.

It is widely recognized that there is a shortage of skilled workers in Canada. Canada's current immigration policies favour skilled professionals, making it easier for them to come to our country. However, because their credentials are not recognized here, they often end up underemployed. It is well documented in reports such as the Ornstein report that ethnoracial groups experience inequalities in gaining employment appropriate to their skill and training.

It has almost become a cliché the way people will joke about our Ph.D. cab drivers. One of our interns worked at a Tim Hortons. Her manager was an immigrant with a master's in medicine, her co-workers were foreign-trained engineers and teachers. She's currently living with someone who is studying nursing at the University of Toronto, where a number of individuals who were practising doctors in their homeland are also studying. It is easier for them to be trained in a new profession than it is to become certified as a doctor here.

Newcomers arrive in our country full of hope to start a new life here and to contribute to Canadian society. The frustrations they meet in trying to find work in their field of expertise can have tragic results: There have been two suicides in the past two years in Toronto's Chinese community. Both of these people were highly educated, skilled immigrants from mainland China who were unable to find steady professional employment.

A recent study conducted by us in partnership with Professor Izumi Sakamoto from the University of Toronto looked at the issue of how mainland Chinese skilled immigrants adapted to life in Canada. Stressed by unemployment or underemployment, and having experienced disillusionment about leading a better life in Canada, participants in the study felt that depression, family conflict and, in extreme cases, suicide occurred most often to immigrants who have been here longer than to newcomers. "Loss of self," "no face," "no future" and "waste of life"—the words used by the study participants to describe their life after immigration—indicate tremendous psychological stresses. Trapped in labour jobs, some interviewees felt embarrassed when comparing themselves with their peers of their home country. The participants all described a loss in their social status and deskilling in employment after immigration.

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We applaud the government's initiative in bringing forward Bill 124, and we stand in substantial agreement with its intent. We also support our community partners in their submissions to this committee, namely the

submissions of the Chinese Canadian National Council's national office, the Chinese Interagency Network and the Policy Roundtable Mobilizing Professions and Trades. It is our hope that by working together, we can further strengthen the bill and fulfill our promise of a better life to foreignly accredited professionals living in Canada.

At the outset, we strongly support the appointment of a fair registration practice commissioner with powers to investigate and order compliance. We also applaud the creation of an access centre, the introduction of the expressed duties of regulated professions, including the preparation of annual fair registration practice reports, and the appointment of auditors to examine the reports. We believe these measures are innovative systemic solutions.

However, our submissions today are from the perspective and experiences of individual claimants undergoing the registration process. We believe there is a need to strengthen the mechanism protecting individual rights and interests of foreignly accredited professionals.

As stated in part II of the bill, we support registration practices that are transparent, objective, impartial and fair. However, we believe that the duty to provide information will not go far enough if it simply requires a more transparent process while allowing discriminatory standards to stand.

In recognition of the fact that additional licensing tests and retraining programs required of foreign-trained applicants have typically been unduly demanding and expensive, we believe that it should be the duty of regulatory professions to implement:

- a reasonable fee scale to registration;
- fair standards which are necessary and relevant to the practice of the profession, in particular, that reflect the required level of occupation-specific English language fluency; and
- culturally sensitive tests that are an accurate assessment of professional skills and training required.

We would like to see an expressed duty to bring registration requirements into compliance with the charter and Human Rights Code, with the recognition that discrimination on the basis of place of training has a high correlation with place of origin.

We support the creation of an independent regulatory appeal tribunal as described in the Thomson report.

We further seek a commitment of funds, either under this bill or elsewhere, to provide free, affordable and accessible legal and profession advice to new Canadians seeking recognition of credentials, including the provision of trained advocates, such as lawyers, without charge, to present the cases of individual claimants before the regulatory bodies in their internal and appeal processes as well as at the independent regulatory appeal tribunal.

In support of our submission, we draw your attention to the documents listed at the end of our written submission.

The Acting Chair: Thank you very much. You've left us with enough time to rotate two more groups. We'll start with Mr. Tabuns.

Mr. Tabuns: Could you speak to this "compliance with charter and Human Rights Code"? You talk about discrimination on the basis of place of training. Could you expand on that?

Ms. Sun: I think basically what that's getting at is that under the charter and Human Rights Code, people should not be discriminated against based on their place of origin. Place of training is quite similar to the place of origin, so if you're being discriminated against because you were trained in another country, then how does this relate to the existing charter and code?

Mr. Tabuns: Okay. Thank you.

The Acting Chair: One more rotation: Mr. Ramal, quickly.

Mr. Ramal: Thank you for the presentation. I take it you think this bill is good enough to help many foreign-trained professionals enter their professions, and you think the fairness commissioner is in a good position to help those professionals enter their professions?

Ms. Sun: We think it's important that a fairness commissioner is appointed. It's not entirely clear from my understanding what the fairness commissioner will do and how that commission will run. It's our suggestion that the province, through the fairness commissioner or through the access centres, continue a dialogue with groups such as the working group on immigration and refugee issues at the city of Toronto that have been working on these issues for some time to make sure that this bill works the way it should.

The Acting Chair: Thank you very much, Ms. Sun, for your presentation.

CANADA LAW FROM ABROAD

The Acting Chair: We'll look for our next deputant, please, Mr. John Kelly, the president of Canada Law from Abroad. If you could step forward and identify yourself for Hansard and, if you're bringing a guest, identify them as well. When you're comfortable and settled in, we'll begin. You have 10 minutes.

Mr. John Kelly: Thank you, Mr. Chair. My name is John Kelly. The organization I represent is called Canada Law from Abroad. I'd refer you to the website, which is actually in appendix D. I'll just read a short sentence from that which will indicate what the organization does: "Canada Law from Abroad addresses the need for an international educational law school bridge for common law LLB degrees." It encourages and facilitates the entry of Canadian students to UK universities to pursue the study of law and obtain LLB degrees in return. In addition to that, for holders of foreign LLB degrees from any jurisdiction and JD degrees from the US and other professional bodies, Canada Law from Abroad also provides tutorial services and support services for those who are seeking to write the challenge exams to obtain accreditation with the Law Society of Upper Canada.

Perhaps I could refer the committee to my executive summary. I'll just paraphrase a few things, and that will give you, I think, a pretty good idea as to where I'm coming from here. There is a substantive brief that you

have in front of you, and obviously I would encourage you to all read this for details on the statements I'm going to make.

Let me start out, though, by saying that law is now an international discipline. I could just throw out things like privacy, environment, anti-money laundering, mergers and acquisitions, immigration. These have all gone beyond the notion that, perhaps for those of you who are lawyers or those who even took law courses a number of years ago, where we looked at things in an Ontario or a Canadian context—we're dealing now with a discipline that has become international. What that has to do with Canada Law from Abroad is that, along with being an international discipline, the marketplace for legal services has also become international. If you read my brief and go through it, you'll see the degree to which law firms—in many respects, law firms outside of Canada—are now actually coming into Canada, providing a number of legal services and, quite frankly, in some cases, setting up offices here and operating accordingly.

Canada Law, as I mentioned to you, provides an international educational bridge for students wanting to pursue LLB degree programs of study in the UK. It also provides accreditation support services for them when they return, in terms of writing the challenge exams to have their degrees accredited.

There are a couple of issues I want to draw to the committee's attention this morning. First of all—I don't really see this articulated in the proposed legislation, but it should be in there—we need to look not just at immigrants from other countries who are coming here, but we also have to start to take into consideration for many professional disciplines, law in particular, the need for recognition—I don't use the word "accreditation"—of international legal institutions, in this case universities abroad, where these people can feel comfortable attending and then coming back to Canada. For example, as you read my brief, you'll see that—it's almost to the point of absurdity, and I say that with all due respect to the law society—universities like Oxford and Cambridge are not recognized by the Law Society of Upper Canada as being valid universities. So students who attend those universities—where, ironically, the common law and basically the LLB were invented—have to come back and prove that every subject and every course, and their grade in every subject and every course, meets with Canadian standards. Then, and only then, are they entitled to write a series of challenge examinations that will qualify them for having their degree accredited.

Obviously, I'm not against, we'll say, challenge examinations and I'm not against accreditation—I think accreditation for professionals is very important—but we're dealing with an absurdity here by way of recognizing that we have great international institutions that we should be encouraging Canadians to attend. So I think a provision has to be built into this legislation that will enable universities—and I'm actually here on behalf of two universities today: one, the University of London, which is a world-renowned university, and the other, the University of Sterling. They basically have attempted to come to

Canada and speak to the Law Society of Upper Canada about how they can become recognized universities.

1030

When I say the Law Society of Upper Canada, I should first of all qualify this by saying that they actually have a representative agency—you'll see it's mentioned in my brief—called the National Committee on Accreditation, which actually acts for the law society and all the other law societies across the country. But in this case, basically the National Committee on Accreditation refuses even to meet with these people because they say they are not recognized universities. So where I'm coming from, again to repeat it—it's a very important point—is that I think we have to build something into this legislation that enables international universities that obviously can prove their validity to become recognized. Now, "recognized" does not mean accreditation, as I say. If you attend a recognized university, you certainly should still have to perhaps come back to this country and demonstrate that you have competencies that are unique to Canada.

The next thing I certainly want to address that we must go through—and again, that's another bullet point in my executive summary—is that we need to provide students, before they leave this country—and I'm talking now about Canadian students—we need to provide those who take this international education bridge with an opportunity to accredit their degrees and basically to get notice prior to leaving that these are the criteria they will be expected to meet when they return. In other words, it's almost like getting pre-qualification, or if you want to call it, almost pre-boarding. What happens now—and I keep throwing this out because it's not name-dropping—I have represented students who have been accepted at Oxford and Cambridge, and yet they're saying, "Can I go there? Because the NCA, the National Committee on Accreditation, will not indicate what courses I should take or what courses might be acceptable, and there's a study plan I'd like to present to them." None of this is accepted. You're basically told, "Go, and when you return we'll deal with you on that basis."

In addition to that, there are two other points that I just very quickly want to make. Another issue is timeliness. When you read through my brief, you'll see a number of the issues that I raise, not so much with the advance accreditation, but with things like how the National Committee on Accreditation works and the systemic barriers that are in there. Over a 10-year period, the NCA itself has had groups within the NCA that have come to them. When you read your legislation—and I've attached one of the briefs that the NCA prepared in its own right—it almost reads like a precursor to your legislation. Ten years ago, there were members of the legal profession going to the National Committee on Accreditation saying, "You've got to put in objective standards. You must have transparency. You must have these things." None of these have been acted on for a 10-year period. In my case, I've been trying to negotiate and dialogue with them for over two years and basically, as you'll see in brief, why I'm here today is that all I get

back from them is, “No response, no response, no response.”

I'm not saying this to be pejorative, but I really think that we also have to look at a situation—and this is what I'm saying, not just for my application but I think for a number of these groups—that, one, when this legislation is passed—and I'm also presuming that the law society is eventually going to be covered in this, even though they've requested an exemption—there's a timeliness factor where we say that if you've been here, and people have been dealing with you for 10 years on this issue, you no longer now have another 10 years to say, “Well, now that the legislation has passed, let's set up a study group and spend another five years going through this.” So I think you have to build something into the legislation that basically enables, in this case my Canada Law from Abroad and other groups that are professional bodies—if, in good faith, they've been attempting to dialogue with regulatory bodies for two, three, four and five years and there has been an issue of avoidance here, that there is basically a fast track so that people like, we'll say in my case, Canada Law from Abroad and others, can actually go to this tribunal from day one and not be put in a situation where we're told, “Now that the legislation has passed, we need another year or two to basically look into this and see where it might lead.” So that certainly is a very important issue as well.

I don't want to spend necessarily—not that it's not important—but the issues that pertain directly to foreign degree holders as well who come in here as recent immigrants or even Canadians returning. If you look through my brief, for example, on page 4, you'll see that I give you a series of bullet points that indicate how the NCA is not meeting in any way, shape or form the criteria that you're proposing be met through this legislation: The process lacks transparency; the guidelines are unclear to the point of being inaccurate; the approval process lacks objectivity and uniformity; the evaluation criteria are biased, without any BFOR justification.

A Canadian student who goes to the University of Toronto up the street has to demonstrate competency in six core subjects to basically be admitted on academic criteria to the Law Society of Upper Canada. The same person who goes abroad has to come back and demonstrate competency in 14 subjects. Those are the kinds of things I'm talking about.

I think you've given me the one-minute warning sign, Mr. Chairman, so I'll stop at this point.

The Acting Chair: Actually, you've gone just a little bit past the one-minute warning and your timing is impeccable—10 minutes. Thank you very much for your presentation, Mr. Kelly.

ONTARIO COUNCIL OF AGENCIES SERVING IMMIGRANTS

The Acting Chair: I'd like to call upon the Ontario Council of Agencies Serving Immigrants, Ms. Debbie Douglas, the executive director. As you are approaching, please identify yourself and your guests, if you have any.

When you're comfortable, you may begin. You have 10 minutes.

Ms. Debbie Douglas: I'm Debbie Douglas, director of the Ontario Council of Agencies Serving Immigrants. I would also like to acknowledge that our coordinator of policy is in the room, Amy Casipullai. Many of my member agencies are also here presenting on their own community's behalf.

Let me just give you a brief introduction to the council. The Ontario Council of Agencies Serving Immigrants, better known as OCASI, appreciates this opportunity to appear before the standing committee on regulations and private bills to speak on Bill 124. We are the umbrella organization for immigrant- and refugee-serving agencies in Ontario. The council was founded in 1978 to act as the collective voice for the sector. We now have more than 180 members across the province, many of whom are watching this process with great interest.

Fair and equitable access to regulated professions is a long-standing concern for OCASI members. Many of the specific concerns regarding access were captured in George Thomson's report, *Review of Appeal Processes from Registration Decisions in Ontario's Regulated Professions*, which was released about a year ago—last November.

OCASI has a very strong interest in supporting Bill 124, which promises in its principles and spirit to advance equitable access to regulated professions in Ontario. The recommendations contained in this presentation are intended to strengthen this goal and to raise questions that we hope will help to bring greater clarity in specific areas.

Around the regulated professions, the bill specifies the professions that are not included in this piece of legislation, essentially those that are covered by the Regulated Health Professions Act, the RHPA, but does not list the ones that are included. The RHPA lists all of the colleges that are covered by that act and includes a list of self-governing health professions.

The advantage in listing the specific professions in the bill itself is that it would require Legislature oversight if a future government decided to make changes in this area. Listing the professions in the regulations as opposed to the bill will mean that it would be easier to change the list without any sort of oversight and that it could be subject to political whim. The question is whether to sacrifice oversight and the opportunity to receive input for a faster process.

OCASI is recommending that the list of professions subject to this piece of legislation should all be named in the act. Ideally, all regulated professions should be included except, of course, those dealt with in the Regulated Health Professions Act.

Interruption.

Ms. Douglas: I am waiting while my friends finish their conversations in the back over there. Okay.

Around the internal review or appeal, while the bill states that a regulated profession should provide an internal review of or appeal from its registration decisions

within a reasonable time, it leaves the choice of the process up to the regulated profession. Further, it is up to the regulated profession to decide if the submissions are to be submitted orally, in writing or by electronic means. However, the RHPA allows an applicant to apply to the Health Professions Appeal and Review Board to hold a review of the application and the supporting documentary evidence. In order to maintain consistency and to give internationally trained professionals, who from now on I will call ITPs, an opportunity for active participation in the appeal, all professions should be required to give applicants an appeal process.

1040

OCASI recommends that the bill should state that the ITP should be given the opportunity to appeal, instead of leaving the choice up to the regulated profession.

We also recommend that the bill should state that the appeal must be in writing, as well as orally in person. If this proves onerous for the ITP, the bill should leave the choice up to the ITP as opposed to the regulated profession.

Further, the bill states who should not be in the appeal and does not specify who should conduct the internal review or appeal. In the interests of supporting the principles of fairness and transparency, OCASI recommends that the appeal should be conducted by a third party, such as an appeals body or tribunal, and not by the regulated profession.

In the area of assessment of qualifications—and I should have said this at the top. The clerk actually has a copy of this that's sitting in her system, so I'm sure members of the committee will get a copy of the written submission from us on this.

The bill appears to set two different standards for the assessment of qualifications. If the regulated profession makes its own assessment, it shall do so in a way that is "transparent, objective, impartial and fair." That's a quote from subsection 9(2) of the bill. However, if the regulated profession retains a third party to assess qualifications, it is only expected to take "reasonable measures" to ensure that this is transparent, objective, impartial and fair. Why two different standards?

The bill provides for oversight of third party assessment by the fairness commissioner, section 12(d), to ensure that the assessment is based on the obligations of regulated professions under the act. Why not include this language in the bill where it refers to third party assessment rather than have it provided only through commissioner oversight?

This bill came about to a large extent because of concerns with barriers in the assessment process, among other things. Because of the importance of this issue and in the interests of ensuring consistency, OCASI recommends that the bill should clearly define what is meant by "transparent," what is meant by "objective," what is meant by "impartial" and what is meant by "fair," both in the main body of the bill and in amendments to the Regulated Health Professions Act. These are broad abstract terms and it would be important to define them

and/or set benchmarks, rather than leave that responsibility up to the regulated professions, the fairness commissioner or to be addressed in the regulations. We're basically asking for definitions in the act itself.

We remain concerned, however, that even this would not address systemic discrimination in access to the process and in conducting assessments.

Around the area of training, the bill states that the individuals who make decisions in the assessment, review or appeal process must be trained on (a) how to hold hearings, and (b) any special considerations that may apply in the assessment of applications and the process for applying these considerations. It does not specify what "special considerations" might mean.

In order to strengthen the bill and to ensure equity and consistency, OCASI is recommending that the bill should clarify what is meant by "special considerations" and that it should include specific reference to including the application of human rights principles and the ability to understand systemic barriers as part of the criteria.

Access to records: While an applicant can request to access the records relating to his or her application held by the profession, the profession can refuse access on four different grounds, including where it could lead to identification of a person who provided information in the record, whether explicitly or implicitly in confidence.

In this, OCASI is guided by comments from the Metro Toronto Chinese and Southeast Asian Legal Clinic, which has noted that the way this subsection is worded is extremely broad and goes beyond the usual exceptions to disclosure rules.

If the decision on an application is to be based on unknown information provided by an unknown person, then in order to support fairness and transparency the internationally trained professional should have the right to access that information. How can an ITP prepare an adequate appeal if important information that has a bearing on the original decision is not provided? As it stands, this provision appears to be counter to the principles and values advanced by the overall bill.

We are concerned about the creation of different classes. The bill allows a fairness commissioner, for example, to create different classes of regulated professions and impose different requirements, conditions or restrictions in respect to any class. It is not clear why different classes would be necessary and what would govern the process of creating such classes.

OCASI is concerned that this could potentially lead to fewer reporting or compliance requirements for some professions. We suggest instead that if regulated professions have unique challenges that would require a different approach, but not different expectations in advancing fairness and equity, then this should be dealt with on a case-by-case basis at the request of the regulated profession.

Audits and reports: similar concerns. These appear to be the key mechanisms that the commissioner can employ to ensure that professions remain accountable. In order to support the principles of the bill, OCASI recommends that the commissioner should provide an op-

portunity for ITPs and community groups that have worked to address barriers to professions to provide input into setting the selection criteria for auditors. OCASI is specifically concerned that the auditor should have a realistic understanding of the systemic barriers that ITPs face, and have experience in identifying such barriers.

We also recommend that the commission report directly to the Legislature—and this is an important piece for us—rather than the minister, thus ensuring greater transparency and a degree of separation from political ideology.

The Chair: Thank you very much. I know that you probably have a few more points to make, but my understanding is that you have provided your presentation through an e-mail format. The clerk can certainly make sure that if members want it in hard copy that that can be done. Unfortunately, there is no time left for any questions, but I'm sure you would be available if members wanted to contact you outside of the committee process.

I want to thank you very, very much for your presentation. I apologize that I wasn't here for the entire portion of it, and I want to thank Mr. Levac for sitting in as Chair for a few minutes while I had to go and do some other things. Thank you very much for coming in today.

Ms. Douglas: Absolutely, and I wanted to leave by congratulating our government for bringing Bill 124 forward.

The Chair: Thank you very much.

COUNCIL OF AGENCIES SERVING SOUTH ASIANS

The Chair: Our next witness is the Council of Agencies Serving South Asians. Is someone from the council here? Welcome. If you want to just get comfortable and state your name for Hansard. You have 10 minutes. If you leave a little bit of time for questions, it has to be within that 10-minute time frame. Go right ahead. Thank you for coming.

Ms. Andalee Adamali: Thank you, and good morning, ladies and gentlemen. My name is Andalee Adamali and I'm from the Council of Agencies Serving South Asians. I'd like to introduce my colleague Uzma Shakir, who—

Interjection.

Ms. Shakir: Moral support.

Ms. Adamali: She is a community member.

Ms. Shakir: It's a matter of perspective.

Ms. Adamali: CASSA is an umbrella organization and we serve the South Asian community and advocate on behalf of individuals, community groups and organizations that serve the South Asian community. We do advocacy work on a variety of issues, including access to professions and trades, seniors' issues, women's issues and youth.

I wanted to start by giving you a bit more information about the South Asian population in Ontario, because this community is particularly impacted by the barriers faced by foreign-trained professionals.

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It is to be noted that these issues gain a certain immediacy when we review the 2001 census data, which shows that the South Asians constitute the largest visible minority community in Toronto today and that it's also the fastest-growing community. Today South Asians make up the second-largest visible minority in Canada, at 3.1%, and 23% of all the visible minority populations. They represent 4.9% of Ontario's population; that is, about 554,000 people. Also to be noted is that between 1991 and 2001, the South Asian population has doubled, from 235,000 to 473,000, so that makes it 28% of all of Toronto's visible minority populations.

Thus the issues being faced by the community are not merely issues of settlement but also the persistent underdevelopment of the community, irrespective of the nature of citizenship. Of the total South Asian population, 54.1% of the population has education levels ranging from high school to some non-university and post-secondary training. This is similar to the total population average at 55.4%, yet the unemployment rate among South Asians is 15% as compared to 9% of the general population. The average income of a South Asian male is at least \$10,000 less than the Canadian average and, for females, less than half the Canadian average. The number of South Asian professionals presently either unemployed or underemployed is alarmingly high in relation to their education levels. Thus, not surprisingly, the city's own studies, like the Ornstein report, show an unacceptably high percentage of South Asians living below the low-income cut-off point; namely, 35% for South Asians compared to 14% of European-origin families, at a time when South Asia remains the second-largest source region of immigrants to Canada generally and Toronto specifically.

I'm quickly going to go through a few of the barriers to access to professions and employment for internationally trained individuals. Essentially, the dramatic under-utilization of their skills and experience has become an increasingly urgent issue. While Canada's immigration policy encourages and invites immigrants with professional qualifications and experience, we continue to be disturbingly ineffective in integrating these highly skilled and educated newcomers:

—The unemployment rate of internationally educated professionals is over three times as high as other people in Ontario.

—Sixty per cent of internationally educated professionals who took jobs unrelated to their training when they first came to Canada held the same job three years later.

—Less than one quarter of internationally educated professionals who were employed were working in their exact field, and 47% were doing something irrelevant to their field.

The impact of having thousands of underemployed immigrant professionals and tradespeople is felt in families and in communities in the form of lost dreams and opportunities, social and economic distress. It's felt

across Canadian society and at all levels of government in the form of lost tax dollars and increased social assistance and social service costs. One recent study has examined the inequalities between immigrants and non-immigrants on measures such as average earnings, occupation and hours of work. Using a respected economic model, the study projects that if these inequalities were completely eliminated, an additional \$64.5 billion could be expected to be added to Canada's GDP by 2036.

CASSA supports the intent of Bill 124, the Fair Access to Regulated Professions Act, because this legislation has the potential to address the rapidly changing demographic shifts in Ontario and to be a part of creating real opportunities for people who have the fundamental right to contribute fully to Canadian society. This bill, if passed, will be one vital step to decreasing the growing disparities between those professionals who have access to the registration process and system and those who don't.

CASSA's proposed amendments to Bill 124 are based on three overarching principles that we feel should be enshrined in the entire registration process. These are: equity, accountability and the public interest.

We define equity, with regard to the registration process in particular, as something that's carried out in compliance with the regulatory bodies' legal obligation not to discriminate and therefore to consider skills, knowledge, credentials and competency to practise without regard to an applicant's race, ancestry, place of origin, colour, ethnic origin, nationality, citizenship, creed, gender, sexual orientation, age, marital status, family status or disability. Further, registration processes are carried out in compliance with the regulatory bodies' ethical obligation not to discriminate and therefore to consider skills, knowledge, credentials and competency to practise without regard to an applicant's country of training, socio-economic status or employment status, and also without regard to labour market demand.

Both the Ontario Human Rights Code and the Canadian Charter of Rights and Freedoms now enshrine equality and the right to live free from discrimination. The obligation today is that the registration process within professional regulation be done in a way that upholds this foundational democratic principle.

The second principle is accountability, in that we need to place a high value on public accountability to ensure that we don't merely talk about the principles and values but that we actually act on and enforce them. Registration processes should be seen to ensure and demonstrate publicly that registration is carried out in the public interest.

The third principle is redefining public interest. We see it as in the public interest to include the idea that it is a basic human right and that all people have the right to participate in society equitably. This would include providing equitable access to systems without unreasonable discrimination. It should be added at this point that some assume that regulators assume the public interest is just a consumer safety issue, but I would like to point out that

it's a bit more than that. It is also about foreign-trained professionals having equal access to the same registration processes as everyone else.

The Chair: You have about a minute left.

Ms. Adamali: As such, the role of regulators is to increase access to the system, thereby being primary players in reducing systemic barriers for foreign-trained professionals.

So we submit under section 6(c) that the equity lens described above be considered in determining the objective requirements for registration by the regulated profession.

With regard to assessment of qualifications, in section 9, CASSA submits that "transparent, objective, impartial and fair" be defined in such a way that it takes into account a broader definition of public interest, as described above, and one that includes the right that all people have to participate in society equitably, which includes providing equitable access to systems without unreasonable discrimination.

The third one is the role of the fairness commissioner, clause (3)(d), that we should monitor third parties retained by regulated professions to assess the qualifications of individuals applying for registration by a regulated profession to ensure that their assessments are based on the obligations of regulated professions under this act and the regulations. CASSA would like to submit that the fairness commissioner shall apply the above function (3)(d) to the provisions of internal review of appeal, assessment of qualifications and training.

The Chair: Thank you very much. We've run out of time, unfortunately, but I think you've made those last three points that you were hoping to make. Unfortunately, there isn't any time for committee members to ask any questions, but we certainly do appreciate your thoughtful presentation and thank you for coming to be a witness to committee.

1100

INSTITUTE OF CHARTERED ACCOUNTANTS OF ONTARIO

The Chair: Next we have the Institute of Chartered Accountants of Ontario. Is anyone here? Welcome. Please take a seat at the end of the table. As you've seen from other presentations, you have a 10-minute time slot. Please begin your presentation by introducing yourself and your colleague. If you leave time during your 10-minute presentation, at the end members of committee will have the chance to ask you some questions. So welcome and thank you for coming.

Mr. Tom Warner: I'm Tom Warner; I'm the vice-president and registrar with the institute. With me today is Edwina McGroddy, who is our director of admissions, licensing and membership for the institute.

We are here today on behalf of the institute and the 32,000-strong CA profession in Ontario, with a two-part message as you review Bill 124, Ontario's Fair Access to Regulated Professions Act, 2006. The first part deals

with the central importance of access to the professions for internationally trained professionals to Ontario's economy and our competitiveness from our perspective, as well as our views on some specific aspects of the legislation as it seeks to reflect this reality. The second part deals with the ways the institute is doing its part to advance this priority in our processes and policies. This may serve as a useful benchmark for you.

First, the issue as it relates to Ontario's prosperity and our related thoughts on Bill 124: We don't need any more studies to tell us that our workforce, including our knowledge-based workforce, is going to grow smaller as the baby boom cohort approaches a retirement wave. Ontario needs skilled immigrants, and more of them, if we are to sustain current workforce levels and keep our economy on the move. Nowhere is this requirement more evident than in financial services, which is increasingly the backbone of our economy, and especially so in Toronto. But it's one thing to support this as a matter of principle; it's quite another to live this principle as we in the CA profession seek to do every day.

This is because chartered accountants work at the heart of our business and capital markets in an age in which investment capital crosses time zones at the push of a button. By definition, as business goes global, so too is our profession an increasingly globalized one. The nature of our work therefore demands that Ontario CAs be able to work abroad and that internationally trained accountants be able to work in Ontario. So we have developed a number of processes to enable the evaluation of internationally trained accountants, as my colleague Edwina will outline in a moment.

That's why we support this legislation, which in our view strikes the right balance between fair access and continued high professional standards, which is central to the public interest. It is also why the institute's director of government affairs, Chris May, has a seat at the minister's advisory round table to help guide policy development in this area.

On that point, let me now offer a few specific comments on the bill which we have previously expressed through our involvement in the Ontario Regulators for Access consortium, comprised of 38 self-regulated professions in Ontario that have all publicly committed to transparent, objective, impartial and fair registration practices.

First, we concur with the overall premise of section 5 that regulated professions have a duty to provide registration practices that are transparent, objective, impartial and fair. This premise is embedded in the tenets of what the Ontario Regulators for Access consortium has done in their long-standing work.

Second, we are pleased that the ministry proposes to establish an access centre for internationally trained individuals to provide information and assistance on the requirements for registration, procedures for applying for registration and opportunities for internships and mentorships. We hope that there will be not only provincial and federal coordination, but also appropriate linkage to our

well-established organizations to ensure information accuracy.

And third, while we question the necessity of an audit, we support public accountability in registration practices. We note, however, the importance of taking into account differences between professions when creating classes of regulated professions. Given that so many different professions are subject to legislation, we hope that the ministry will consider background and contextual information about each regulator when establishing classes of regulators.

Having said that, I now turn to my colleague Edwina McGroddy for a few comments on the processes and policies used by the institute to ensure fair access for internationally trained accountants.

Ms. Edwina McGroddy: Good morning. My colleague Tom has explained why the institute and the Ontario CA profession need to ensure fair access for internationally trained accountants. I'd like to take a moment to highlight how we do this through processes that have been recognized by successive Ontario governments at best practice levels for many years. These are detailed in an institute backgrounder we have available here for you this morning called Access CA. We'll make sure that you each get a copy. There's much more information for you on our website, www.icao.on.ca, under "Become a CA."

In a nutshell, though, the institute ensures fair access to the CA profession for internationally trained applicants through a rigorous, sophisticated assessment process. It examines the qualification standards of the candidate's home accounting body and it assesses the individual merits of a candidate's education and experience.

We also play a central role in a CA profession body called the International Qualifications Appraisal Board, or IQAB. This body is responsible for assessing the qualification and admission standards of international accounting bodies. IQAB then recommends to the provincial institutes of chartered accountants in Canada whether the education, examination and experience requirements for qualification are equal to those in this country. In cases where IQAB has not yet assessed the standards of an accounting body in another country or has found them not equivalent to Canadian standards, candidates will fall into the non-recognized or non-assessed categories.

So if you are a member of a recognized accounting body, you are eligible for membership in the institute under our reciprocity provisions, pending the completion of the chartered accountant reciprocity examination, what we also call CARE. If you are a member of a non-recognized accounting body, you are still eligible to receive exemption from some of the normal requirements of the CA qualification program in Ontario. But in most cases, you must complete the School of Accountancy program; the uniform evaluation, UFE; and the requisite amount of public accounting experience.

That said, IQAB is committed to assisting non-equivalent accounting bodies in meeting its standard. For

example, the institute of public accountants in Mexico recently upgraded its qualification process to meet the IQAB standard, so candidates who qualify through the Mexican body are now recognized in Canada. As well, those who have exceptional educational and experience backgrounds may apply to the institute's applications committee, which includes members who are not CAs, to receive additional exemptions.

Finally, if applicants believe that any of these processes have erred in reaching their decisions, they may request to have the decision reviewed by the appeal committee, which also includes representatives of the public.

I would emphasize that these are only brief highlights. As mentioned, a much more comprehensive body of information is available online, in part to ensure that those who would seek access to the CA profession while still abroad have access to all the information they need to make informed decisions before they leave for Canada.

Thank you. If we have time, we'll take questions.

The Chair: In fact, we do. We have just over a minute—almost two minutes, actually. I believe we start with Mr. Klees.

Mr. Klees: Thank you very much for your presentation. At the outset, let me commend your organization for your initiative in this regard. I think, frankly, you should be one of the best practices examples that the government should take for the work you have done and continue to do. I think you are one of the very few, if in fact there are any others, where someone can, while they're still in the country of origin, actually know before they come here as to whether or not they will qualify and be recognized. That really is where I think we should be going. Given the technology we have, with the Internet and all of the other information technology, there is no reason that potential immigrants to this country shouldn't be going through this process while they're actually waiting to hear whether they've been approved to come to this country. Many times, it takes two and three and four years, and they could be using that period of time to go through this process.

So my question to you is, with regard to the experience you actually have when people get qualified, what is your experience of their actually getting a job, getting tied in with an employer and becoming engaged in the profession? What kind of gap do you see there, or do you have any statistics that can help us with that?

1110

Mr. Warner: Now when you say "qualified," I'm assuming you mean qualified as chartered accountants in Ontario?

Mr. Klees: Yes.

Mr. Warner: There certainly are no problems. Once someone has become a chartered accountant, whether it's through the normal student process and exams or as an internationally trained accountant who's become a CA in Ontario, there's no difficulty we are aware of that individuals have experienced. In fact, there is a demand for chartered accountants in the marketplace right now. There are no issues there.

The Chair: Thank you very much. Unfortunately, we've run out of time for these witnesses, but thank you for joining us. We appreciate your comments and insights. Thanks again.

CONSORTIUM OF AGENCIES SERVING INTERNATIONALLY TRAINED PERSONS

The Chair: Our next witness is the Consortium of Agencies Serving Internationally Trained Persons. Are the representatives from that group here? Great.

Before we actually begin the presentation, there was a request from the Chinese media who are outside wanting to know if it would be all right to bring in cameras to take some pictures. If it's all right with the committee members, I'll invite them in with the understanding that they are not to interfere with any of the proceedings—unless there's a problem. Are there any concerns?

Mr. Sergio: Is this normal?

The Chair: Pardon me? I leave it up to the committee—I mean, it's totally up to the committee as to whether or not it's appropriate.

Mr. Klees: It's fine with me.

Mr. Ramal: No problem.

The Chair: Okay, that's fine.

Mr. Klees: No problem, unless the government has something to hide.

Mr. Ramal: No, we have nothing to hide.

Mr. Levac: Frank, we would never hide anything from you, because we couldn't get away with it. You know that.

The Chair: Thank you, committee members. I'm sure they'll appreciate the opportunity.

Interjections.

The Chair: If I can call the committee back to order, please. Thank you very much.

Welcome. Thank you for coming in. You'll have 10 minutes for your presentation. You can start off by introducing yourselves for the purposes of Hansard. As you know, you'll have 10 minutes, and if you leave any time within that 10 minutes, we'll rotate through the members for questions and comments. Please go ahead.

Ms. Allison Pond: Good morning. Members of the committee, thank you for this opportunity to convey to you on behalf of CASIP, the Consortium of Agencies Serving Internationally Trained Persons, our support of Bill 124, Fair Access to Regulated Professions Act.

My name is Allison Pond, and I am the executive director of ACCES Employment Services, a community-based agency that provides employment services to new Canadians across the GTA. I am here with my colleague Jane Cullingworth, the executive director of Skills for Change, representing CASIP, a consortium of eight organizations that provide employment and training services to immigrants in Toronto, Etobicoke, Scarborough, North York, Mississauga, Brampton, York region and Richmond Hill.

Along with ACCES and Skills for Change, CASIP members include COSTI Immigrant Services, JVS,

JobStart, MicroSkills, Humber College and Seneca College. We all have a long history of delivering employment services to new Canadians in our communities, and together we serve thousands of internationally trained professionals annually across the GTA. We came together as CASIP over eight years ago with the shared vision to improve access for skilled immigrants to employment in their professional occupations.

Collectively, we work with some licensing bodies in Ontario in the delivery of services that help to remove barriers and improve access to licensing and to employment in licensed professions, including projects for teachers, engineers, accountants and health care professionals. In partnership, we deliver other services such as sector-specific language training, mentoring partnership and career bridge, all projects to support skilled immigrants to access their professional fields of expertise.

Finally, we work closely with a number of associations that represent internationally trained professionals themselves seeking fair and equitable access to their licensed professions, such as AIPSO, the Association of Internationally Trained Physicians and Surgeons of Ontario; CAPE, the Council for Access to the Profession of Engineering; and PROMPT, the Policy Roundtable Mobilizing Professions and Trades.

We are here before you today because we, as a consortium of direct service deliverers, know too well that despite all of our work and our efforts over the years, the internationally trained professionals we are serving across the GTA every day are continuing to face many of the same barriers to licensure and to fair and equitable access into their professions through the licensing and registration process. We have many stories, and we know the individuals. We strongly believe that the proclamation of Bill 124 is a critical step in addressing the inequity faced by internationally trained Ontarians and in establishing ongoing practices that will ensure fair access to their licensed professions.

At this point, my colleague Jane will continue with our presentation.

Ms. Jane Cullingworth: CASIP applauds the government on this bill. While all governments have talked about the confounding complexity of licensing and registration processes, none has put forward comprehensive legislation to tackle these challenges. This legislation respects the principle of self-regulation while also taking strong and necessary government leadership to ensure that the occupational regulatory bodies are being held accountable to standards of practice that are transparent, objective, impartial and fair. It is in the public interest not only that regulators ensure that all licensed individuals are competent but, more broadly, to ensure that all competent individuals are licensed. We believe this legislation will help shift the current paradigm.

This legislation creates the foundation to ensure that the framework in which occupational registration processes operate is one that is based on equity. Regulatory bodies play a vital public function in our society. It is in

the public interest that the practices and policies of our occupational regulatory bodies are transparent and are made available to the public, whom the regulatory bodies are there to protect. This legislation achieves this without undermining the independence or integrity of regulators.

We are aware that this bill has its critics, from those who believe that the bill does not go far enough to those who believe that the bill has gone too far. At CASIP, we consider this bill to be bold legislation, legislation which takes us further as a society than we have ever been before in creating clear accountabilities and standards in the relationship between the state and occupational regulatory bodies. Again, we applaud the government for taking leadership in this legislation and breaking new ground. This is contentious terrain. We know that there will always be resistance to this kind of controversial legislation, but it is legislation that must be supported because it creates a new era of transparency.

As a community, we have worked alongside internationally educated professionals for over two decades to try to create change in the system. We have waited eagerly for legislation. We were hopeful when the former Minister Mary Anne Chambers announced that there would be a review of the appeals processes. We were profoundly impressed with the Thomson report and its comprehensive analysis, not only of the need for independent appeals but, more significantly, of the need to ensure first and foremost that fair registration practices exist. We feared inaction, particularly given how far-reaching those recommendations in the Thomson report were.

Bill 124, the result of this process and many other initiatives and efforts, is one that we are thoroughly impressed with. It has actually gone further than we had expected. And while we would like to have seen an independent appeals process, we do support the focus on creating equity in registration practices. This approach will create systemic change that will reduce the need for appeals. This focus will have a greater impact than an independent appeals process that would benefit a small handful of people in that it will actually create systemic change in processes that will impact on a greater number of people.

We urge all members of this committee to support this legislation and to ensure its quick passing so that we can move now to create equity across the board in the registration processes of our occupational regulatory bodies. The unanimous support of this legislation from all parties, not just the government of Ontario, will distinguish this Legislature as one that was willing to take real leadership in addressing systemic issues in occupational licensing that have stymied the efforts of internationally educated professionals for many, many years.

This legislation sets a new standard of accountability that will not only have an impact economically but also in the arena of human rights. The legislation creates an equity framework that protects and promotes the human rights of internationally educated professionals. CASIP urges you all to do what is right, not only for

internationally educated professionals but for all citizens of Ontario.

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The Chair: You've left a couple of minutes for questions. We've got about three minutes left. We'll start with Mr. Tabuns.

Mr. Tabuns: I have no questions.

The Chair: The government side?

Mr. Ramal: Thank you very much for your presentation. I want to thank you for the job you do on a daily basis through your organization to support the many individuals who want to fit and be great contributors to the economy and the community of Ontario.

You listed all the stuff, and I agree with you; I share the thought with you. We held so many meetings across Ontario. This issue has been impassioned to my heart, and I've dealt with it on an individual basis too. I immigrated to Canada in 1989—I'm a foreign-trained professional and my wife is the same; she is a medical doctor—facing the same situation. So that's why our government brings this issue forward, in order to break down those barriers. I want to thank you again, on behalf of my colleagues and on behalf of the government, for continuing your job to make sure all the foreign-trained professionals fit and integrate very well in this community.

Mr. Levac: Thank you very much for your presentation. For clarity purposes, we heard earlier that someone made mention that the present presenter might have been an apologist for the government. You do not see yourself—you've worked independently in your assessment of the bill—

Ms. Cullingworth: Absolutely.

Mr. Levac: —and it is your opinion, your group's opinion and the umbrella group's opinion that this is the right way to go in legislation?

Ms. Cullingworth: Absolutely.

Mr. Levac: Thank you very much for that clarity.

The Chair: Thank you for bringing your concerns to the committee. We really appreciate your presentation.

We'll now move on to the next presenter.

Mr. Klees: While the next presenters are coming up, could I put a question to research, please?

The Chair: Certainly.

Mr. Klees: We had a presentation earlier from the College of Medical Laboratory Technologists of Ontario, and in their presentation, at the bottom of the first page, they made reference to some statistics from 1999 to 2000, inclusive. They gave the number of applications that were reviewed by their registration committee. They gave the number of those applications that were then approved for registration, and the balance that were left for appeal.

It would be very helpful if we could have those statistics for all of the regulatory bodies for which we had requested information. If you could please look into that for us, I'd appreciate it.

The Chair: Thank you, Mr. Klees.

It's okay, Elaine? You've got the details? Great.

CHINESE CANADIAN NATIONAL COUNCIL

The Chair: If I can now ask for the Chinese Canadian National Council to come to the table. Welcome. As you are getting settled, you will know that you have a 10-minute time frame. If you leave any time within that envelope, members will be able to ask questions. So please begin your presentation with an introduction of yourselves.

Mr. Victor Wong: Thank you, Madam Chair, honourable members. My name is Victor Wong. I am the executive director of the Chinese Canadian National Council, and with me is our immediate past president, Cynthia Pay.

CCNC is a community leader for Chinese Canadians in promoting a more just, respectful and inclusive society. We are a national non-profit organization with 27 chapters across Canada and 10 chapters in Ontario. Our mandate is to promote the equality rights and full participation of our community members in all aspects of Canadian society. There are close to 1.2 million Chinese Canadians in this country and we are the third-largest ethnocultural group in Canada. There are more than 550,000 Chinese Canadians living in Ontario today.

Canada is currently facing a shortage of skilled workers, specifically in many of the skilled professional areas. The current unemployment rate is 6% and lower for working adults over the age of 25. Studies suggest that Canada's future net labour force growth will be reliant almost entirely on immigration due to demographic realities, including our aging workforce and low birth rate.

Over the past five years, some 210,000 Chinese have immigrated to Canada, an average of 42,000 per year. These newcomers, like our previous generations, arrive in Canada with hopes and dreams of a new beginning. They bring a diverse range of talent, experience and professional credentials, and have the ability to greatly contribute to Canadian society. But for many, these dreams are not realized because they face barriers in their efforts to find work in their chosen field or profession. Canada's current immigration policies make it easier to immigrate as a trained and skilled professional. But once in Canada, these very same skills are not recognized, and these individuals often end up underemployed or unemployed. Canada, and specifically Ontario, must end this problem. Ontario must ensure that newcomer professionals gain fair access to registration with their respective professional bodies and that the assessments of their credentials are conducted objectively and fairly.

Ms. Cynthia Pay: CCNC supports the important aim of this bill, but upon analysis, we do have suggestions on how to improve this important legislation. We'd like to highlight four areas of concern for the committee.

The first area relates to appeal rights. The bill provides for either an internal review or appeal from registration decisions. Because of the importance of those types of decisions, we believe that appeal rights should be available to all applicants. It's our experience that an appeal is

generally a much more rigorous and transparent process. In my day job as a lawyer at a community legal clinic, we find that internal reviews are often merely a rubber stamp of decisions. So we'd like to see a more rigorous, full appeal process available.

Further, we'd also like to see information about the type of grounds that would be available for doing an appeal; for example, whether it's an error of law, mixed fact and law or procedural errors—things like that. We'd like to see more information about possible appeal rights in the bill.

Secondly, we'd like to make some suggestions around legal support or representation. The government has made a commitment to provide an access or information centre to applicants for registration. But we'd also like to see a commitment for support or legal representation to those individuals who are trying to appeal a decision around their registration. Obviously, without that support, an appeal right or even an internal review right is less meaningful and people will be less able to access their rights.

Thirdly, we have some comments around the appointment of the fairness commissioner. As you know, the bill says, "The Lieutenant Governor in Council may appoint an individual to act as the fair registration practices commissioner." We'd like to see section 12 amended to say that this commissioner "shall" be appointed, and we'd also like to see that this commissioner report to the Legislature directly.

Finally, obviously the bill sets out a process where professions are required to report on their practices and provide regular audits. Beyond general language around practices that are "transparent, objective, impartial and fair," there are not many details about what those practices should be to meet the standards. So, to further flesh out the details, we'd really like to see some kind of fair practices code included in the bill. Many of those elements of a fair registration practice have been set out by the Thomson report, which many people have referred to. We think it would be helpful to see those elements in the bill.

Mr. Wong: To do an effective job on this file, we have to look beyond Bill 124. We further recommend that the government of Ontario work closely with the Canadian government and the other provinces to establish an Internet portal or database for prospective applicants regarding the labour force conditions, both locally and nationally, so that they can realistically assess their chances of accreditation and employment before they decide to immigrate to Canada. This information should be updated on a regular basis with input from the professional regulating bodies; for example, for engineers, let's say, to see how many jobs are actually available. This would help prospective applicants before they begin the immigration process.

The Chair: We have about four minutes left, so we're going to start with Mr. Murdoch. Any questions, Mr. Murdoch?

Mr. Bill Murdoch (Bruce-Grey-Owen Sound): No.

The Chair: Questions, Mr. Tabuns?

Mr. Tabuns: Yes. Thank you, Cynthia and Victor, for coming and making a presentation today. On the question of a best practices code and definition of "open, transparent" etc., can you give us some sense of the kind of wording that you think would be effective here, if we're actually going to amend this bill?

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Ms. Pay: I guess the more information in the bill, the better, at least to have some language around the fact that this kind of code would maybe be set out in regulations. But the more specifics, the better. We like the language in the Thomson report and the very specific examples they provide in terms of the types of things that would make up a best practice code. We mentioned some of those in our written submission; for example, the fees should be reasonable, there should be alternative means of providing credentials, your criteria should be published and very clear to everybody—things like that.

Mr. Tabuns: Thank you very much.

The Chair: Do you have any questions? Mr. Levac.

Mr. Levac: You have made it clear that the overall intent and the concept of what we're trying to accomplish in the bill are laudable and that you support it. In terms of the effective changes, does it really matter to you whether they're done by amendment or regulation, or are there specifics on some of the changes? The one I assume you want in legislation is "shall" instead of "may," those types of things. But what about within regulations versus the legislation itself?

Ms. Pay: All the suggestions we make are targeted towards changing the actual bill itself. As you know, those rights will be enshrined in the bill and much harder to change later on. We'd like to see things around the guarantee of appeal rights and the grounds for appeal in the bill, as well as changing the language around the fairness commissioner. Around support or legal representation, that's more of a public commitment policy thing, I think, and also a budgetary decision of the province. I don't think that necessarily has to be in the bill, but we'd like to see all the other suggestions we made included, just to improve the effectiveness of the bill.

Mr. Levac: Thank you.

The Chair: Thank you for your presentation. We really appreciate that.

BRAMPTON BOARD OF TRADE

The Chair: I now would like to call the next presenter, the Brampton Board of Trade. Welcome. As you're getting comfortable, you know you'll have a 10-minute time slot, and if you leave any time within that framework, members of committee will be able to ask you some questions. Please introduce yourself and begin your presentation.

Mr. Sheldon Leiba: Good morning, committee members. My name is Sheldon Leiba. I'm the general manager of the Brampton Board of Trade. Thank you for providing this opportunity to present on Bill 124, Fair Access to Regulated Professions Act.

The Brampton Board of Trade is the pre-eminent business association in the city of Brampton, with a long and well-established history of leadership in our community. It is estimated that the 2006 census will rank the city of Brampton as Canada's 10th-largest city and the fifth-largest in Ontario, behind Toronto, Ottawa, Mississauga and Hamilton. Our organization currently represents 1,200 businesses and organizations in and around our community, representing all sizes and sectors and employing more than 35,000 people, many of whom are registered members of various regulated professions or require members of regulated professions. One of our core focuses is to advocate on behalf of the interests of our members and the business community in Brampton and to contribute to economic development and the quality of life in our community.

Over the past two years, the Brampton Board of Trade has been very active on the issue of the employment integration of immigrants, developing policies at the Canadian Chamber of Commerce on this subject and participating in numerous local and regional initiatives. This past spring, we commenced a very active employer awareness campaign on the benefits of hiring immigrants, entitled Skills without Borders, which includes: a study of local labour demands; exploring barriers for employers to hiring immigrants; employer awareness seminars and activities; employer focus groups; and the dissemination of information on resources and services to assist employers in attracting, recruiting and retaining immigrants as employees.

The Brampton Board of Trade prides itself on the work that we have done, and will continue to do, in this area, hopefully setting a strong example for business associations throughout Ontario and Canada in supporting the effective employment integration of immigrants.

With Brampton being one of the fastest-growing communities in Canada, our city is also very fortunate to be attracting a large and growing pool of skilled, talented and experienced immigrants who want to make a significant social, economic and cultural contribution to our community.

We know very well about the skill shortages our economy is currently experiencing and the labour demands that will become an increasingly significant issue in the future, affecting every industry, sector and profession, and the need for attracting immigrants and foreign-trained professionals to fill these needs to sustain a strong local domestic workforce. We know about the high academic credentials, skills and experience that our country's active immigration system is able to attract to our country and province. In an increasingly globalized economy, countries from all over the world are competing for what we have, and we cannot take for granted that foreign-trained professionals will continue to be attracted to Canada and Ontario. And we know that we all, as a collective—government, settlement agencies and related organizations, the education system and the business community—must play a strong role in breaking down barriers and supporting the gainful employment of

immigrants so that our society and economy can capitalize on their full potential.

Bill 124, the Fair Access to Regulated Professions Act, is one very important step in the right direction. If we are successful in effectively integrating immigrants and foreign-trained professionals into our labour force in the professions in which they are trained, skilled and experienced, Canadian society and our economy as a whole will gain by providing employers, our economy and society with the skills we need and by providing immigrants the opportunity to contribute fully in their professions to optimize their earnings, stimulate our economy with their consumer spending and contribute to the social and cultural development of our community and, ultimately, to our overall quality of life. If we are not successful, we will all lose. This should not be an option.

The Brampton Board of Trade is a non-partisan organization, but we are a political organization that will speak out loudly against government on issues that we deem not to be in the best interests of our members and the business community, which we often do. Conversely, we will also speak out loudly to support good government policy. In this circumstance, we congratulate the provincial government, Minister Colle and the Ministry of Citizenship and Immigration for taking a very progressive and proactive step to address a major employment barrier for internationally trained professionals, that is, the recognition of foreign credentials and access to regulated professions.

The case in favour of Bill 124 is less a social case for the Brampton Board of Trade but, rather, a very strong business and economic case that has tremendous implications for Brampton and communities throughout Ontario.

We are here as a leading business association to say that business and professional bodies cannot afford to be part of the problem. The fair, effective and expedient employment integration of immigrants is absolutely critical to strengthening our economic future, and thus business and professional regulatory bodies must be part of the solution.

While the focus of my presentation here today relates specifically to the beneficial impact of this legislation as it relates to immigrants, achieving fairness, transparency, and efficiency in licensing and registering professionals, whether for immigrants or not, makes good sense.

In business we understand the need to meet standards and be efficient to compete. The same should be applied to professional regulatory bodies so that Ontario can remain competitive with the growing economies that we compete with throughout the world.

It is for these many reasons outlined that the Brampton Board of Trade is pleased to express our broad support for this important piece of legislation. Thank you.

The Chair: You've left about four minutes for questions. Mr. Murdoch? No? The government?

Mr. Ramal: I was listening to your presentation, and you listed all the details about how many people who

want to be full citizens and contribute to the economy are not able to do it because of so many obstacles, so many barriers. You think this bill will help those individuals to overcome those barriers and be full citizens. I know you support the bill, but how do you think we can actually enhance it and do better?

Mr. Leiba: I'm really here to speak in broad support of the legislation. We haven't really assessed the details. I know there have been comments before about more details that are probably required to be included in the legislation. Having read it, I see that myself. It's just to flesh out some of the details around the very specific requirements that will be required of the various regulatory bodies. It will be very interesting to see some of that in the legislation.

Mr. Ramal: Thank you very much.

The Chair: Thank you very much for your presentation. We appreciate your coming in.

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WINDSOR WOMEN WORKING WITH IMMIGRANT WOMEN

The Chair: Our next group of presenters is Windsor Women Working with Immigrant Women. Welcome. Thank you for coming in. As you've seen, there's a 10-minute time frame, and if you leave time at the end of your presentation, members can ask you some questions. Please begin by introducing yourself.

Ms. Sungee John: My name is Sungee John. I'm currently a board member and the immediate past president of Windsor Women Working with Immigrant Women. We welcome this opportunity to appear before the standing committee on regulations and private bills concerning Bill 124. The Immigrant Women's Centre, as we're also known, is an organization that provides assistance and empowerment to immigrant and first-generation Canadian women and their families so that they may be fully participating members of Canadian society. We strive to achieve such goals through a combination of funded programs and volunteer services. In fact, this year, we have a newly funded partnership with Teach in Ontario to work with internationally trained teachers.

Windsor Women working With Immigrant Women is also a member group of the Ontario Council of Agencies Serving Immigrants, better known as OCASI, and we endorse their position and recommendations presented earlier this morning.

This brief will focus on four sections of the bill: fair registration practices, the fairness commission, the access centre and reports.

Fair registration practices and specific duties: Under subsection 8(1), "Internal review and appeal," we echo concerns raised by previous submissions regarding the inclusion of internal review or appeal as options when inquiries into or challenges to the decision-making process of the regulated professions are made. Opening the door to internal reviews will only raise questions over transparency, something the bill seeks to improve. To

that end, and to ensure impartial judgments, a neutral third party is the logical course.

Regarding access to records, the section entitled "Limitations," clause 11(2)(c), as currently written in Bill 124, would not further the goals of transparency. ITIs should have reasonable access to all information within their files, if not the identity of the person providing the information deemed confidential. Not allowing such access would only reinforce barriers. ITIs could very likely be making numerous failed applications at quite an expense to their pockets and never know the true circumstances of their lack of success. Moreover, clause 11(2)(d) continues this slippery slope of decision-making in secrecy by invoking public safety. ITIs have already been put under the security microscope during the process of applying for landing. Raising the spectre of public safety, either as a threat or potential threat, can seriously damage an ITI's professional reputation and career future.

Windsor Women recommends that clause 11(2)(c) be amended to allow for access by ITIs to confidential information while keeping the identity of the information provider confidential. We further recommend that clause 11(2)(d) be amended to specify the definition of "negatively affect public safety or ... undermine the integrity of the registration process," and also entail with it that the burden of proof be squarely placed on the regulating body.

Regarding the registration practices of the fairness commissioner under section 13, the issue of creating classes: This opens the door to define and impose conditions on regulated professions through a number of categories that are yet to be defined in the bill. What is the intent of this particular role of identifying classes assigned to the fairness commissioner, and why does the fairness commissioner need to create more hierarchy or layers of bureaucracy? Windsor Women fails to see the relevance of this particular job description under the fairness commissioner.

In subsection 15(1), the fairness commissioner has the flexibility to staff his or her office. However, due to the special challenges faced by access to regulated professions, it is critical that appropriate consideration and training be given to potential employees of this office. Therefore, we recommend that the fairness commission's staff be provided with sensitivity training upon being hired.

Under the "Access Centre for Internationally Trained Individuals," the establishment of the access centre is an important step to removing barriers and providing some sort of universal system to assess their credentials and provide some guidance about which routes they should take to pursue their careers in this country. However, as presented in Bill 124, the access centre for ITIs appears to operate independently of any specific oversight, whether governmental or non-governmental.

It's also imperative to include community involvement, especially stakeholder involvement, in this access centre. So we recommend that stakeholders be consulted and involved at every step during the establishment of the

access centre, and also that procedures and mechanisms are in place to identify and address systemic barriers such as discrimination based on gender, race, ability, sexual orientation etc., as well as provide sensitivity training for the staff.

Finally, under "Reports," there needs to be better integration of the issues of systemic barriers in the legislation. It also needs to be included in periodic reviews on how effectively the legislation is working. In particular, we would recommend that a gender and race analysis be part of that review and that, perhaps in a five-year period, an overall review of the legislation and the impact it has had be made by the committee. As a women's centre, we are particularly concerned about the barriers faced by women who are seeking to regain their careers in their chosen professions. Addressing areas of gender impact is critical in this legislation, and we would like to see that.

In conclusion, this bill holds much promise for many ITIs—more promise than they've been given in the past. Given sustainable resources, regulating bodies can and do assist ITIs re-entering the workforce in their career of choice. We are seeing this working through our partnership in Teach in Ontario with the Ontario College of Teachers.

It can work, and with more clarification and better revisions made, and the inclusion of some of the recommendations made by earlier presenters, this bill can be very effective. Thank you.

The Chair: You've left just over a minute or so. Mr. Murdoch?

Mr. Murdoch: I want to thank you for coming.

If none of your changes were accepted, would you still want us to pass this bill in its present form?

Ms. John: It's better than nothing—

Mr. Murdoch: Okay.

Ms. John: —but I would like to see—especially with gender impact.

Mr. Murdoch: And I'm sure some will change, but I just wanted to make sure that, if nothing happened, the bill would be better than what we have.

Ms. John: Right now, there is a mishmash of things.

Mr. Murdoch: Okay. That's fine. Thanks.

The Chair: Thank you very much. I appreciate your presentation. Thank you for coming.

COLLEGE OF NURSES OF ONTARIO

The Chair: I don't believe our next presenter is here yet, so we're going to the College of Nurses of Ontario. Thank you, and welcome. As you know, you have a 10-minute time slot. If you leave some time within that framework, members of committee will have a chance to ask you some questions. Please state your name and begin your presentation.

Ms. Anne Coghlan: Thank you very much, Madam Chair and members of the committee, for the opportunity to present. My name is Anne Coghlan, and I am the executive director of the College of Nurses of Ontario, which is the regulatory body for registered nurses and

registered practical nurses in the province. I am here today to reinforce that the College of Nurses is supportive of registration practices for regulated professionals that are transparent, objective, impartial and fair. The College of Nurses strives to embody these principles within its own registration practices.

My presentation today will highlight our concerns with the impact of the bill on self-regulation and public protection. Health regulatory colleges will be affected by section 34 of the bill, the proposed amendments to the Regulated Health Professions Act.

My comments relate to three areas: the role of the college, the authority of the new fairness commissioner and the new audit of college registration processes.

The principal mandate of the College of Nurses of Ontario is to protect the public interest by ensuring that Ontario nurses provide safe, effective and ethical care to clients. The college sets requirements to enter the profession, establishes and enforces standards of nursing practice, ensures the quality of practice of the profession and the continuing competence of nurses and responds to concerns about nursing practice.

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Specific requirements for entry to the nursing profession have been established by the college. They are necessary for a nurse to practise safely and effectively in Ontario. For example, to be eligible for registration in Ontario, applicants must complete an approved nursing or practical nursing program or an equivalent program. Assessing equivalency of out-of-province applicants' educational programs to Ontario's programs is important because the competencies embedded in Ontario's curriculum are foundational to a nurse's success in the workplace and patient safety.

The college of nurses recognizes that a number of additional requirements are necessary for nurses to be ready to practise in Ontario's health care system. One of these requirements is evidence of recent, safe nursing practice. Applicants must demonstrate that they have recently practised in a health care environment to ensure current knowledge and competence. Demonstration of currency may include a recent nursing program which combines theory and clinical practice or work experience in or outside of Ontario. Another requirement is the ability to communicate fluently in French or English. This is vital to successful practice in our health care system.

All applicants for registration also write a national exam. Our role as a regulator is to ensure that all applicants are ready to practise in Ontario's complex health care environment. This role is fulfilled when all entry-to-practice requirements are met, ensuring the public that applicants will, upon registration, provide the public with safe, competent care.

With respect to the authority of the fairness commissioner, Bill 124 provides the commissioner with the authority to influence the entry-to-practice requirements of a self-regulated profession. We believe that the entry requirements I have described are critical to ensuring that

nurses entering practice in Ontario are adequately prepared to deliver safe, effective and ethical care to everyone, regardless of age, care setting or severity of illness. We are concerned that the new authority of the fairness commissioner may erode our ability to set these requirements and to ensure that they are met.

The college of nurses recommends that the fairness commissioner's authority be limited to reviewing procedural matters that relate to an applicant's right to administrative fairness. The responsibility for setting entry-to-practice requirements should remain with the college of nurses, given our expertise in nursing self-regulation. When considering changes to entry-to-practice requirements, the college assesses the constantly changing role of the nurse in the current health care environment. The competencies embodied in educational programs have been developed in collaboration with nurses in practice, nurse educators and health care administrators and reflect the needs of today's complex practice environment.

The college has invested considerably in ensuring the success of internationally educated nurses applying for registration in Ontario. We have collaborated with the Creating Access to Regulated Employment Centre for internationally educated nurses since its inception. Known as the CARE Centre, it has increased the pass rate for internationally educated nurses on the national exam and helped over 700 nurses from 50 countries feel confident and prepared for a nursing career in Ontario. The college of nurses has also worked with the Ministry of Training, Colleges and Universities and other stakeholders to develop an interactive web-based guide for internationally educated nurses. This guide provides applicants with the information they need to assess their practice and education against requirements for registration in Ontario. A paper-based registration package is also available to those applicants who do not have Internet access.

I would also like to address the issue of the regular audits proposed in Bill 124. Our governing legislation, the Regulated Health Professions Act, mandates independent oversight of college registration decisions and reporting of registration committee activity. The college of nurses meets these requirements by sharing registration data and policy decisions with our council at open meetings, in our annual report to the minister and by making public applicant and membership statistics. Independent oversight of our registration decisions is provided by the Health Professions Appeal and Review Board. At no cost, an applicant can request that the board review a registration decision. Between 2002 and 2005, the Health Professions Appeal and Review Board issued 39 decisions on our college's registration matters and upheld 38 of the 39 decisions.

The college of nurses strives to ensure that our registration practices are fair and unbiased. It is our recommendation that the proposed bill be modified to provide the commissioner with the authority to order an audit only when a reasonable belief exists that an applicant's right to procedural fairness has not been met, or when a

college is non-compliant with the principles of the legislation. Should an audit of college registration processes be warranted on such grounds, then colleges should be provided with specific information as to the audit's scope and standards. We are requesting that this information be provided by the commissioner prior to any audits taking place.

On a final note, should the proposed bill become law, the college of nurses will need time to prepare for its requirements on an operational level. For example, the way that information is collected and reported may need to be adapted depending on the assessment criteria. Our recommendation is that the enforcement of the bill be staggered, with an initial focus on regulators who do not currently have an independent appeal mechanism for applicants.

In conclusion, the College of Nurses of Ontario believes strongly in the concept of self-regulation. We believe that it is in the interest of Ontarians that self-regulation be preserved. Our main concern with Bill 124 is that it will begin to erode the college's legislated privilege and demonstrated expertise in setting entry-to-practice requirements for Ontario's nurses. We recommend that the health regulatory college's authority on this matter be respected, and that the college's expertise in establishing professional competencies be utilized. Further consultation on the impact of this bill is welcomed, and we would be pleased to work with the government on subsequent drafts.

In closing, the College of Nurses of Ontario is appreciative of the opportunity to provide input. I'd be pleased to answer any questions you may have relating to our submission.

The Chair: Thank you very much. We have just over a minute, so one quick question is probably all we have time for, Mr. Tabuns?

Mr. Tabuns: The independent appeals tribunal that exists for health professions, has that been problematic for the nurses? Is this actually something that you've just been able to accept as part of normal practice?

Ms. Coghlan: Absolutely. It has not been a problem for us at all.

Mr. Tabuns: Do you think, then, that other professions should have an independent tribunal where there's a question about certification or registration as well?

Ms. Coghlan: Certainly.

Mr. Tabuns: Thank you very much.

The Chair: We appreciate that. We're going to move on to the next presenter. Thank you very much for your comments. Thank you for coming in.

OLIVIA CHOW

The Chair: Our next presenter is Olivia Chow, member of Parliament. Welcome, Ms. Chow. Please take your seat. You have a 10-minute time slot. If you leave time within that framework, the members of committee will have an opportunity to ask you questions. So please go ahead when you're ready.

Ms. Olivia Chow Thanks very much for this opportunity to participate in this hearing. It's a very good opportunity for us to have a dialogue. I can't begin to tell you how important it is to get Bill 124 right. By recognizing foreign credentials effectively, Ontario has the opportunity to help immigrants in my riding and across the province to achieve a better life and make a badly needed contribution to our economy. I say this as an immigrant myself, as the member of Parliament in Trinity-Spadina, where thousands of immigrants make their home, and as the NDP deputy immigration critic.

With Bill 124, if you get it right, you have a chance to show leadership in helping to overhaul Canada's badly neglected and badly broken immigration system, and Ontario has a chance to lead the way. For thousands of immigrants, we have reached a crisis point in Canada, in Ontario and in Toronto: Thousands of new immigrants a year and a growing proportion that are highly qualified and educated professionals and only a fraction of them are able to qualify to work here within the professions. Every year, thousands more are unable to practise their skills, and for too many people that means poverty, a burden on society, frustration rather than a contribution to our society.

I believe, in the House, you've heard my counterpart in my riding, Rosario Marchese, talk on this issue and you probably have heard from Peter Tabuns, who has a really good understanding of this issue and who has offered some real solutions.

1200

What I actually want to do right now is bring you a bit of a view from Ottawa. We know that immigration has changed. We're looking at 60% or so of university degrees—a huge influx of people with much to offer but not allowed to offer it. So far, what you would have noticed in the immigration system is that every year we seem to be getting more professionals in the economic class and less family unification, family-class immigrants. This means that in the last five to 10 years there is more and more skilled labour coming into the country, and the regulation seems to be that that is the projection.

So far, what is the federal government doing? You know that the feds have started a foreign credential recognition program. There is a lot of consultation that the federal government has also been doing. They are spending \$18 million—we, they—to set up an agency to coordinate activities across the country on this issue.

But one of the things that we're looking at is the five areas: Fair—individuals wishing to have credentials assessed will be treated equitably; accessible—individuals wishing to have their credentials assessed will have access to appropriate services; coherent—so that the process is coherent across Canada; transparent—so that individuals will understand how to have their credentials assessed and recognized before they arrive in Canada, and if they don't meet the requirements, they'll know what to do; and rigorous—of course, high standards for preserving the quality.

What we are looking at right now, when we are trying to coordinate, facilitate and work together—we need to

really add some teeth to Bill 124. I think Mr. Tabuns has mentioned that there needs to be an independent appeal tribunal so that when an immigrant has their certificate rejected, they understand how to appeal; they can get backed up for support so that they can get professional advice and be very clear on what professions are being covered. Make sure that the code is registered, that there's a practice code, and also have the access centre being established in the act to evaluate the comparison of regulatory standards between Ontario and other parts of Canada and other countries. Give the minister the power to eliminate any practices that are contrary to the fair registration practice code, and make sure that the fairness commissioner who has been suggested report annually so that we can all look at what's happening. Then, perhaps we can even do more and perhaps the federal government can then connect. Of course, you need a fairness commissioner in the first place.

With these kinds of amendments, I believe that you will be the leader. You will be able to have thousands of underemployed immigrants in communities that need professionals and skilled workers in different disciplines. You will give them hope, you will give them a productive life and you will change the lives not just of the worker, but also of the families, the children who are suffering because their mom or dad, or both of them, are feeling really underemployed, undervalued and not working to their full potential.

So getting it right is vital for the province and it is vital to people who live in my riding, across Ontario and across Canada, because we need leadership here. Every day we hear the frustration from people in my constituency office. It's really a human tragedy. Please take the lead, address it and send Ottawa a message at the same time. Believe me, if you do it right, I will happily drive that message home on Parliament Hill.

Thank you for taking the time to listen to me.

The Chair: Thank you very much. You've left a good couple of minutes for some questions, if anyone wants to ask. We'll start with the government side, Mr. Ramal.

Mr. Ramal: Thank you for your presentation and thank you for showing interest in this topic. Do you know how much our Premier and our minister are fighting for immigrants in Ontario? As you know, an immigrant who comes to different parts of the country receives \$3,800 in support. An immigrant who comes to Ontario gets only \$800 and some change. I wonder if you, as an MP, and your leader, as leader of the fourth party, supported our Premier's effort on Parliament Hill through motions, a bill, resolutions to aid and support us to give us the ability to support the newcomers who want to be great Ontarians.

Ms. Chow: I actually know Minister Colle quite well, because we were both Metro councillors and our offices were actually next door to each other. I have in fact been speaking to Minister Monte Solberg and basically my message is very clear: "Show me the money. You signed the agreement last November and the money needs to flow." The last conversation I had with him was a week

and a half ago, and the word that he gave me is, "It's imminent." So I was thinking that you would have gotten the money by now.

Interruption.

Ms. Chow: I don't know; you haven't gotten it yet, eh? It's coming, it's coming.

In fact, the HRSDC Minister Finley was in the House and I asked her the same question: "What about this \$18 million put aside?" Could we not take some of that money and provide Ontario with an agency to do some bridging programs, mentorship programs? While we're establishing all this, let's get the action on the ground, because we know that there are some practices, like the Maytree Foundation and other groups that are doing good work. Let's get the funds to the people on the front line so that the immigrants themselves can immediately get the bridging programs and the mentorship programs that are needed.

We know that in 2005 alone, over 130,000 skilled workers were admitted to Canada. That's a huge number. A lot of them come to Ontario and they need the funds. I think this year it's \$160 million for federal transfer to the province, to the local agencies. I agree; you need the funding. We're pushing it as hard as we can. If you have more suggestions as to how I could be more effective in Ottawa defending the rights of Ontarians and immigrants, let me know and I'll be willing to—in fact, a few days ago I put in a petition. I sent in a petition saying that the funding for the province for immigrants needs to be released now.

Mr. Ramal: So we're looking forward to seeing your support on Bill 124, especially at Parliament Hill, to get the money in order to implement our agenda, which will allow these many newcomers to fit in and integrate. I thank you.

Ms. Chow: We need two things. It's like building a house; you need the structure. This bill is part of the structure, but what I'm saying is that the structure is not complete. You need a good foundation. That's why you need to strengthen the bill to make it work. Right now, it's a bit nebulous. The money is like the roof and walls; then it builds the house. But if you don't have the foundation, if you don't have the structure done right, then it won't be complete. It won't work as well.

The Chair: Thank you very much. Unfortunately, we ran out of time. The last question was quite a long one, so we'll have to get you on the next go around. Sorry, Mr. Murdoch.

Thank you for your presentation. I appreciate your coming in to share your insights.

TAMIL EELAM SOCIETY OF CANADA

The Chair: We now have our final presentation for the morning, which is the Tamil Eelam Society of Canada. Do we have someone here from that organization?

Please join us at the table. As you are getting comfortable, you'll know that you have a 10-minute presentation. If you leave any time at the end, members will be able to ask you some questions. As you take your

seats, please introduce anybody in your party and begin as soon as you are seated.

Mr. Anton Philip: My name is Anton Philip. I'm representing the Tamil Eelam Society of Canada, which has served immigrants for the last 25 years. I'm here with Sri-Guggan Srikandarajah, a settlement counsellor who has been working on this issue for a long time. He'll be giving the presentation.

I have also brought two people here who are professionally trained and who are still going through this process. One has been a medical doctor for the last 22 years, working in Sri Lanka. He came in the skilled workers category and for one year has been sitting exams and studying and all that. And we have a professional engineer in IT who has been here for the last year and is in the same category.

1210

The Chair: Could you mention their names.

Mr. Philip: Kalavathy Sabanayakar and Vadivelu Ponnalagan.

The Chair: Thank you.

Mr. Philip: I yield the floor to Sri-Guggan Srikandarajah.

Mr. Sri-Guggan Srikandarajah: Good afternoon, and thank you very much for receiving this delegation. I'm going to be quite brief.

The Tamil Eelam Society endorses the purpose and objective of the legislation as it has been drafted. The support that has been demonstrated towards the legislation is amply published. Having gone through all of them, there's nothing much else that we would do other than support the legislation in principle. There are, however, several suggestions that I think the committee should take very seriously in order to make sure that people don't fall into the cracks that exist. The reason I say this is that the task force that was set up to look at the issue of access to trades and professions was, I believe, under the last Liberal provincial government. It reported and nothing meaningful has happened since then until this legislation has been drafted.

Taking up the situation of doctors, if they were unable to qualify to practise their profession within a limited period of time, they effectively became ineligible to sit exams etc. It's important to make sure that those people are not left behind. So when Ms. Chow talks about mentoring or programs that enable people to keep their skills honed, that's an important thing to take into consideration, so that if and when the regulations are put together, things of that nature are addressed. It would be helpful to people who have been lamenting here for far too long. The earlier idea was that the private volunteer sector will make the necessary moves and accommodations to enable people to practise their professions. That effectively has not happened, except in the case of the civil engineers and a few other professions that have made some adjustments.

I note that the Institute of Chartered Accountants has been very supportive of this legislation. I believe they see the benefit of facilitating the re-entry into that profession

of people who have been qualified elsewhere. That's a very laudable thing.

I also heard a while ago issues about transfer of monies and what is going to happen with them. I'm a director at the Ontario Council of Agencies Serving Immigrants, and at a conference a few weeks ago, the federal bureaucracy and the provincial bureaucracy were represented. I asked what I think is a very pertinent question: What happens with ESL monies that have been earmarked to help people settle, qualify, learn the skills of learning and understanding by achieving a good level of the English language? I asked the question because—let me go back a little bit. We know that boards of education have been taking monies that have been earmarked for ESL and moving them from that line to something else, to apply those monies for other purposes. When I asked the question of the federal and provincial bureaucrats as to what has happened in the last six years to rectify that situation, all I got was an answer to the effect of, "We're still talking. Nothing has been worked out." In those circumstances, I think it's imperative that if you are helping new immigrants to adjust and providing them with the possibility of learning a language, that it is incumbent, whether it be the federal or the provincial government, to absolutely insist that that line is not shiftable, that the monies earmarked for that purpose have to stay for that purpose and be applied in that manner. It's not good enough if boards of education are starting to juggle monies because they can't do their budgets. It's imperative, in my view and the view of my community, that those monies should be applied for that purpose and nothing else.

There was one other area I wanted to talk about, and maybe some consideration can be given to it. There's a dire need for doctors. There are, for example, people who qualify in the Indian subcontinent as much as there are people who qualify like this woman here in the Sri Lankan context. I see advertisements on television which talk about the unique quality of medicine and surgery on the Indian subcontinent and how it costs a fraction of what it costs in North America. I think some serious attention should be paid to that because, if you're basically saying that people who qualify elsewhere are not skilled, that they don't have the technological knowledge or wherewithal, that is being differential and treating people in a detrimental manner. To me, that advertisement is a really good example of how we

undervalue external professional qualifications. Please pay attention to that. I know that the British Royal College of Surgeons conducts primary exams and so on overseas at locations that give people who qualify there a first step into becoming a fellow of the royal college and becoming a consultant etc. There is a need to think in those terms. There is a need to provide meaningful, workable programs that address the immediacy of the need in Ontario. We talk about a thousand doctors being needed. I think we've got to find innovative ways of achieving that. Simply making more space isn't in itself the answer; it's a very long-term answer.

I will end at that and be quite willing to answer questions.

The Chair: Do you have any questions, Mr. Murdoch?

Mr. Murdoch: No.

The Chair: Mr. Tabuns?

Mr. Tabuns: Yes. Thanks for the presentation. In the report done by Judge Thomson, he calls for an independent tribunal to consider rejections by regulatory bodies of registration submissions by professionals. Would you support the creation of those independent tribunals?

Mr. Srikandarajah: I've had the pleasure of being a vice-chair of three tribunals at the provincial level. I would gladly support it because there is many a slip between the cup and the lip, and if erroneous decisions are made, I think people should have a fair opportunity to rectify that.

The Chair: That concludes the presentation. Again, I want to thank you for your insights and comments.

Members of committee, that concludes all of the hearings for today. I want to thank all of the witnesses who took time out to come and provide information and insights to our committee. I want to thank the members—I have some business that I need to let you know about—for your attention to the witnesses, and as well the staff. You need to know that the deadline for the Hamilton hearings is 5 o'clock today. The clerks are going to send out the list to the members of the parties if it's over-subscribed, and if we could then have the choices of the parties back to the clerk by 5 o'clock tomorrow, we would appreciate that and go from there. So thank you very much, everyone. The committee now stands adjourned until 6 o'clock on Tuesday, November 21, 2006.

The committee adjourned at 1220.

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Legislative Assembly of Ontario

Second Session, 38th Parliament

Assemblée législative de l'Ontario

Deuxième session, 38^e législature

Official Report of Debates (Hansard)

Tuesday 21 November 2006

Journal des débats (Hansard)

Mardi 21 novembre 2006

**Standing committee on
regulations and private bills**

**Comité permanent des
règlements et des projets
de loi d'intérêt privé**

**Fair Access to Regulated
Professions Act, 2006**

**Loi de 2006 sur l'accès équitable
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLS**

Tuesday 21 November 2006

**COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ**

Mardi 21 novembre 2006

The committee met at 1815 in committee room 1.

**FAIR ACCESS TO REGULATED
PROFESSIONS ACT, 2006**

**LOI DE 2006 SUR L'ACCÈS ÉQUITABLE
AUX PROFESSIONS RÉGLEMENTÉES**

Consideration of Bill 124, An Act to provide for fair registration practices in Ontario's regulated professions /
Projet de loi 124, Loi prévoyant des pratiques d'inscription équitables dans les professions réglementées de l'Ontario.

The Chair (Ms. Andrea Horwath): Good evening, everyone. The standing committee on regulations and private bills is called to order. We're here today to continue the public hearings on Bill 124, An Act to provide for fair registration practices in Ontario's regulated professions.

As members of the public will know, the members of the Legislature were called to business in the House, so we're running a little bit behind time. But thank you all for coming here tonight to put your voice on the record.

Members, for your information, your packages include research materials that were requested at our last meeting. I want to thank the research library staff for bringing those materials to us. I'm going to start off the public hearings immediately.

Mr. Peter Tabuns (Toronto-Danforth): Can I just ask if the research material could be circulated to us on an electronic basis?

The Chair: It has been already, apparently.

Mr. Tabuns: For some reason, I haven't been getting them, and I realized that with the last round as well. There must be an error in my e-mail address. Anyway, if that could be sent to me, that would be great.

The Chair: We'll ask the clerks to make sure that they get the right address and follow up with that.

Mr. Tabuns: Thank you.

The Chair: As occurred last time, there are representatives from the media here who might want to take a few flash photos. So I'm just asking all members whether it's all right to have some media people take photos with cameras. Is there a problem with that?

Mr. Frank Klees (Oak Ridges): As long as they give us equal time.

The Chair: Exactly.

Mr. Dave Levac (Brant): As long as they get my good side, Madam Chair.

The Chair: That might be difficult. I'm only kidding you, Mr. Levac. I apologize. I take that back. I expunge that from the record.

For members of the media who are here, if they can just be aware that we don't want to have the proceedings interrupted. So you're free to take pictures, and I thank the members for that acquiescence.

**INSTITUTE OF CHARTERED
ACCOUNTANTS OF BANGLADESH,
NORTH AMERICAN CHAPTER**

The Chair: Our first presenter is the Institute of Chartered Accounts of Bangladesh, North American Chapter. Abdul Wahid, the chairman, is on our list. Welcome, sir. The process is that you come to the end of the table to any chair that you favour. Make yourself comfortable. As you get seated, just introduce yourself for the record and then begin your presentation. You have 10 minutes to make your presentation. At the end, if you leave some time within that 10 minutes, members of the committee will have an opportunity to ask questions of you. Please begin when you're ready.

Mr. Abdul Wahid: Thank you so much, Madam Chair. Good evening, ladies and gentlemen. My name is Abdul Wahid. By profession, I am a chartered accountant from Bangladesh, with a CPA from Illinois, USA. When I came to Canada in 1999, I lost my CA designation; however, thanks to the CGA institute, I have managed to get one. I am the chairman of the Institute of Chartered Accountants of Bangladesh, North American Chapter, and secretary of the Bangladeshi-Canadian Political Action Committee, BPAC.

The Institute of Chartered Accountants of Bangladesh, North American Chapter, is a non-profit organization formed in 2002. The main objective is to look after the welfare and professional development of the members of the Institute of Chartered Accountants of Bangladesh, ICAB, who are living in North America.

BPAC is a non-profit, non-partisan political podium for Bangladeshi-Canadians formed in 2003. Its main objectives are to enhance political awareness, to promote participation of Bangladeshi-Canadians in the Canadian mainstream political system, and to address the concerns

of Bangladeshi-Canadians at all levels of government and organizations.

We'd like to share some of the difficulties we face with the Canadian Institute of Chartered Accountants, CICA, regarding the reciprocity recognition of ICAB.

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In July 2003, we made a full-day appointment with CICA senior management to brief them about the education and professional standard maintained by ICAB. The then president of the Institute of Chartered Accountants of Bangladesh flew from Bangladesh to join this meeting, along with the executive members of the ICAB North American chapter. We made a PowerPoint presentation and went over the academic curriculum followed by ICAB and all other professional development activities conducted by ICAB. We also provided them with the hard copy of the entire syllabus and some of the journals and publications of ICAB.

In September 2003, we were told to submit a formal application for reciprocity recognition. The Institute of Chartered Accountants of Bangladesh formally submitted the application in September 2003. In July 2004, we made another appointment with the CICA to follow up on our application. In this meeting, the president of ICAB again came to Toronto to join the meeting, along with the North American chapter executive committee, and we managed to clear all the questions and concerns raised by the CICA regarding our application. After the meeting, we were told that our application would be submitted to the International Qualifications Appraisal Board, IQAB, for evaluation.

In 2005, on inquiry, we were told that the International Qualifications Appraisal Board cleared our application and that it would be submitted for CICA provincial approval. Up to now, we have not received the result of our application and are patiently waiting for the result, but we don't know how long it will take. This is greatly frustrating our members, who have nowhere to go. As a professional body, we are facing many difficulties, so you can understand what kind of hardship a foreign-qualified individual is going to have in the assessment of their credentials.

We'd like to mention another issue here, that CICA is not consistent in the assessment of foreign qualifications. In some cases they're evaluating on the basis of an education standard and in some cases on the basis of residency, which we feel is unfair. An example is as follows: If a person becomes a certified public accountant, a CPA, in the USA before becoming a Canadian resident, he or she will be exempted from the education and examination requirements for the CA qualification program in Ontario. He or she will only be required to take the CA reciprocity examination, the CARE. But if a Canadian resident passes the same CPA exam, they will not be given the opportunity to write the CARE to become a CA in Ontario. We feel this is a double standard and does not make any sense.

There are more than 55,000 Bangladeshis living in the GTA. Bangladeshi newcomers face many barriers. These include cultural integration into Canadian society, un-

employment, underemployment, poverty, isolation, family violence and family disintegration. Newcomers who have no or limited Canadian education, skills or training are most susceptible to unemployment and underemployment, and are often compelled to accept low-paying jobs or just those with minimum wage and are barely able to survive in this country.

The long process of licensing and certification and the cost involved in the process is a big hindrance in pursuing their career-oriented goals. Lack of Canadian work experience also stands as a serious obstacle for many highly qualified and skilled Bangladeshis when trying to get a job in their preferred profession that matches their qualification, skills and experience.

On April 13, 2004, the president of BPAC wrote a letter to the Minister of Training, Colleges and Universities regarding recognition of foreign-trained professionals. Dr. Kuldip Kular, MPP, and Mr. Michael Prue, MPP, supported our letter. Copies of our letter and the support letters of the respective MPPs are enclosed for your reference.

We'd like to thank the Liberal government for bringing this important, overdue Bill 124, An Act to provide for fair registration practices in Ontario's regulated professions. Although we are supportive of this bill, upon closer analysis of the bill we strongly feel that the following changes need to be incorporated for the further improvement of this landmark piece of legislation.

(1) Fairness commissioner: Under subsection 12(1) of the bill, "The Lieutenant Governor in Council may appoint an individual to act as the fair registration practices commissioner." This individual will be known as the fairness commissioner.

With a view to make this position more independent and politically unbiased, subsection 12(1) should be amended to read, "The Lieutenant Governor in Council may appoint an individual to act as the fair registration practices commissioner and he/she will report to the Legislature."

(2) Create an independent regulatory appeal tribunal: Subsection 8(1) of the bill provides an internal review or appeal read as, "A regulated profession shall provide an internal review of or appeal from its registration decisions within a reasonable time."

We believe that every individual should have the right to appeal against the registration decision if he/she is not satisfied with the decision. If we see the current complicated, protective policy adopted by the different self-regulated bodies, it is not possible to get a fair judgment from the internal review appeal. An appeal is generally a more meticulous and transparent process and should be carried out by the independent appeal body. An independent appeal body is more transparent, accountable and also provides an appearance of fairness to the public. Since there is an appeal system which exists in the health profession, the same type of facility should be extended to other professions.

It would be more helpful if the ground of appeal is set in the bill, such as reasonable apprehension of bias, procedural errors or errors of law etc.

The Chair: You have one minute left.

Mr. Wahid: (3) Legal representation or support: Under the bill there is a proposal of establishment of information or access centre for individuals seeking information about the registration process as well as conducting research. But there is no provision in the bill for legal support, which is one of the most important issues. Foreign-qualified individuals do not have enough expertise to depend on themselves in the appeal process, nor have the means to pay for legal costs. Hence it is important to make provision in the bill to provide legal assistance whenever necessary.

(4) Fair registration practices code: The bill sets out a process where the self-regulated professions will be required to report on their registration practices and will be subject to audit. Beyond this general language about the practices that are "transparent, objective, impartial and fair," there are further details about what practices would meet these standards. We recommend that a fair registration practice code should be included in the bill to set out consistent and fair elements of a registration practice. Many of these elements, including published criteria, reasonable fee and alternative means of providing credentials, are set out in the Thomson report.

The Chair: I'm sorry, but your 10 minutes has run out. The good thing is that the remainder of your recommendations are here in paper format. Unfortunately, there's no time for questions to be asked, but I know that the committee very much appreciates your thoughtful presentation. Thank you for coming and speaking to us this evening.

ONTARIO ASSOCIATION OF CERTIFIED ENGINEERING TECHNICIANS AND TECHNOLOGISTS

The Chair: If I could now ask for the Ontario Association of Certified Engineering Technicians and Technologists to take a seat at the end of the table. As you take your seats, please introduce yourselves so that we can get your names on Hansard. Begin your presentation. Similar to the last presentation, I'll warn you when we're down to a minute left in your presentation. If you do leave time at the end, we'll be able to ask questions from the committee's perspective. So welcome, and please go ahead.

Mr. Gene Stodolak: Thank you very much. Good evening, Madam Chair and committee members. My name is Gene Stodolak, and I'm the president of the Ontario Association of Certified Engineering Technicians and Technologists, the acronym known as OACETT. To my immediate right is David Tsang, president-elect, and to my immediate left is Mr. Pasha Mohammed, a member of our board of directors. The three of us are volunteers elected by the membership. To my far right is David Thomson, the executive director of OACETT. I would also like to mention two of our past presidents who have joined us today, sitting in the audience, comprising our government relations committee. Perhaps I could ask

them to stand. It's Mr. Angelo Innocente, from the Kitchener-Waterloo area, and Mr. Robin Dunn, from Meaford. I'd also like to introduce Ms. Sharon Leonard, our director of professional services.

1830

OACETT and its 23,000 members are pleased to have the opportunity to participate in these public hearings into Bill 124. We have made a formal submission and I'd like to take a few minutes to provide you with some of the details and its highlights.

Our members enjoy clean, challenging, well-paying careers. As certified engineering and applied science technicians and technologists, graduates of our community colleges and increasingly internationally trained professionals, we work in 14 disciplines in a range of industries, including manufacturing, electrical power generation and distribution, resources, engineering consulting, military and municipal sectors. I'd also like to add that many of our members own and operate their own very successful businesses.

Operating under provincial legislation, we certify, based on academics, work experience and professional ethics. Our certification designations—CET, A.Sc.T. and C.Tech—are widely recognized and supported in the marketplace. Employers recognize the value of certification and often make it an employment requirement.

Celebrating our 50th anniversary next year, we take pride in considering ourselves to be the solutions people, working in concert with government, businesses and colleges to enhance public safety and advance the professional recognition of our members.

More specifically, OACETT's role in helping internationally trained professionals includes, but is not limited to, the following—and I refer you to page 2 of our submission that details a more exhaustive list.

Forty per cent of our governance structure is comprised of women and internationally trained professionals. We not only talk the talk but we also walk the talk.

Certification highlights to employers that an internationally trained professional has the academic qualifications, work experience and professional ethics comparable to a graduate of an Ontario college.

Investing heavily in the updating of our foreign-trained qualifications database to ensure fair and accurate assessment of qualifications is definitely a priority for us. We have a two-year work experience requirement for certification. We accept one year of international experience and will further reduce the one-year Canadian work experience requirement if the internationally trained professional takes, for example, a building code course.

We are taking a serious look at further addressing the Canadian work experience requirement for internationally trained professionals to become certified with our association. We are also developing proposals to start the certification process before the internationally trained professional arrives in Ontario to take up residence.

Not an insignificant point, but our affinity partner has agreed to accept proof of the safe driving record of an internationally trained professional in their home country as comparable to Canadian experience, and they benefit from lower auto insurance rates.

We've also negotiated, with the PEO and the OAA, business models that will allow qualified OACETT members, including internationally trained professionals, to obtain limited engineering and architectural licences. Indeed, we believe and endorse that many foreign-trained professional engineers also are seeking OACETT certification.

We strongly support this legislation without qualification. It is, in the public interest, the right thing to do and, on balance, progressive legislation. The essential elements of the legislation are supportable and will break down barriers that prevent our newcomers from working in their chosen fields.

We would caution against either strengthening or weakening the provisions of this draft legislation. We believe the legislative delegation for professional self-regulating and/or certifying by and large works effectively to safeguard public safety and promote the economic development of our economy.

We further believe that the legislation provides for sufficient checks and balances, including public scrutiny, to ensure that licensing and certification requirements remain the responsibility of the professions.

Additionally, while we support and commend the government for such complementary initiatives as bridge training programs and direct financial assistance to help newcomers adjust and find gainful employment in their chosen fields, we caution against excessive expenditures. From our direct experience, bridge training programs are expensive and we are all going through a learning curve to find the business models that work most effectively.

In the interest of time, the rest of our formal submission outlines longer-term policy initiatives that must be undertaken, in our opinion, to further reduce barriers.

If I may, I'd like to highlight one example drawn from a recent forum sponsored by OACETT in which the Honourable Mike Colle met with senior representatives from Mohawk College, major employers, politicians, settlement groups and OACETT in Hamilton: "Public and employer awareness, acceptance and embracing of the need for social and economic integration of newcomers are everyone's responsibility." In my opinion, the skill shortages facing this province and country, the ability of newcomers to bring diversity and productivity improvements to our communities and the passage of this legislation will accelerate that integration.

On behalf of OACETT and its 23,000 technology professionals, I would like to thank you for this opportunity. If time permits, if you have any questions, we would be pleased to answer them.

The Chair: Thank you very much. We have about two minutes left. My understanding from our last meeting is that we will begin with the Progressive Conservative Party. Mr. Klees, please go ahead.

Mr. Klees: Thank you very much. I appreciate your presentation and commend you for the initiatives you've taken with regard to this.

I have a question for you. You make reference to the fact that 40% of your existing membership are either women or internationally trained professionals. Is that overall within the membership of your organization or is it strictly within your governance structure? I'm not clear from your presentation.

Mr. Stodolak: I would submit to you that presently, on our executive councils, that comprises 40% of the membership at that table. That's correct.

Mr. Klees: How many of those are internationally trained professionals? What percentage would be—

Mr. Stodolak: Forty per cent of the executive council is that. I guess you're speaking to the number of members who are—

The Chair: You have about one minute.

Mr. Klees: I actually want to clarify. You say "women and/or internationally trained professionals." I'm trying to get a handle on how many of that 40% are in fact internationally trained professionals, both in your governance structures and your overall membership.

Mr. Stodolak: Thirty per cent.

Mr. Klees: Thirty per cent are internationally trained professionals?

Mr. Stodolak: That's correct.

Mr. Klees: Thank you. With regards to the limited scopes of practice, I'm interested in that. You're saying that currently within the profession there are actually special licences granted that are limited in scope. I know we don't have time for a fulsome response here, but could you undertake to provide us with a description of what exactly that means and what kind of work people are able to do who hold that limited-scope licence?

Mr. Stodolak: Absolutely. In engineering, it's called the LET—licensed engineering technologist; in architecture, it's OAAAS—the licensed architectural technologist.

The Chair: Thank you very much, Mr. Stodolak, and thank you, gentlemen, for coming this evening. We appreciate your presentation. Thank you for your insights. If you do have further information, certainly provide it to the clerk and she'll make sure it gets distributed to the members.

MUSLIM COMMUNITY SERVICES

The Chair: Next, we have Muslim Community Services, Najma Iqbal, director of program services. You can sit at the end of the table and make yourself comfortable. As you saw from the other presentations, you'll have a 10-minute opportunity. If you leave any time at the end, the members will have a chance to ask you questions.

Having said that, the bells are ringing. Just so that members know, the bells might be ringing all night long.

1840

Ms. Deborah Matthews (London North Centre): That's for coming back to the House.

The Chair: That's for coming back to the House? Okay. But when we get back into session, I was notified by the clerk that there's an expectation that we might have some bells tonight. So if you don't mind, I'll inform you that my understanding is that the procedure will be that if the bells are calling us back into the House, we'll continue in committee and give ourselves enough time to get up into the House by the time the vote is called, if that's all right with members, because our interest is in hearing from the community as well. So we'll leave ourselves about 10 minutes during that half-hour time frame if it's a half-hour bell.

Mr. Levac: Can we be notified? Either that, or turn on the TV without sound, if this particular TV has the time clock on it?

The Chair: It will be on.

Mr. Levac: I appreciate that. Quite frankly, I do agree with you. Let's try to get as many deputations uninterrupted as possible.

Mr. Klees: I would suggest that we ignore the bells, we focus on the people who are here. The government has plenty of members out there to carry on the business. We shouldn't interrupt our proceedings at all.

Mr. Levac: Nice try, Frank.

The Chair: Nonetheless, Mr. Klees, I appreciate your contribution in the discussion. Having said that, who knows where we're going to end up in terms of actual bells tonight?

Thank you very much for your patience. We appreciate your joining us. Please introduce yourself for the purposes of the record and begin when you're ready.

Ms. Najma Iqbal: Good evening. My name is Najma Iqbal and I'm from Muslim Community Services. I'm very pleased and I welcome the opportunity to make a presentation to you. Thank you for the opportunity to show our support on behalf of Muslim Community Services for Bill 124, the Fair Access to Regulated Professions Act.

I'm a volunteer board member of Muslim Community Services. We are a multi-service community-based organization out in Peel. We have offices in Brampton and Mississauga. In our 18-year history, we have served over 75,000 clients—not units of service; these are actual clients that we've had the pleasure of serving—and we provide a range of services, including settlement and integration, violence against women crisis intervention support, LINC classes. We have provided employment assistance services, we have seniors and youth programs and a range of services that impact the changing community and face of Peel.

Newcomers choose Canada to start a new life. They bring with them the hopes and aspirations to integrate and settle in this chosen land. They come with the promise and optimism that Canada represents around the world: that of being a fair and open society and a land of opportunity that values our diversity. Nobody will argue with our Canadian values and the desire to attract the best of the best of newcomers to our country. It is a forward-thinking and strategic direction that should position our

province and our country well into the knowledge economy. Dreams are only made possible and come true when put into practise, and then they are realized.

In the past decade, we have seen thousands of newcomers, many of them skilled professionals, arriving in Canada. Mostly, they come to Ontario and then to the GTA. Many of them end up being our clients. It is the basis of their credentials, education and experience that enables a significant majority of them to immigrate to Canada. But the day that they land, their credentials, experience and education don't have the same value.

It is not the message that we want to give here in Ontario to newcomers. We see and hear their plight on a daily basis and their quest to establish themselves, wanting to gain employment in their field. That is their highest priority after finding a place to live.

The stories of how internationally educated professionals are unable to get jobs in their field, are unable to understand the process it takes to get licensed and the expense and time it takes to navigate the system are something that is stifling and debilitating to them and to the practitioners who are providing their support. They lose their dreams and become disillusioned. Many are in survival jobs and are living in poverty. They end up on social assistance and it takes them many, many years to get out of that hole, diminishing the quality of their life and further pushing them away from being part of the profession that they so want and deserve to be in.

This picture may be bleak, but that is the reality that many of the skilled newcomers living here today face. They still have the skills and experience and ability to work in their profession, but they face significant barriers to getting into the field. The stories and examples are endless. Any time you pick up a paper or read another report—we all know that. That's not news to you. I'm sure that you are very familiar with that issue and the plight of our newcomer professionals who are in this predicament. The question is, how are we all going to act, in a more meaningful and concrete way, to change that predicament and this long-standing issue now for these skilled newcomers and not just pay lip service?

Bill 124 is an important factor in breaking down those barriers within a self-regulated system for newcomers in professions. It's historic and has many systemic issues at the front end, and that's important. Using a comprehensive, balanced approach and dealing with the application and administrative practices in regulated professions, ensuring that they are fair, accessible, impartial and transparent, is critical, thus providing solutions to the barriers people face when trying to gain professional recognition and access to their profession. It is an excellent start, and a step in the right direction. Knowledge is power.

The existing entry system into regulated professions is complex, and it's very difficult for individuals to understand the requirements, process and time needed to be successful. Many immigrants end up spending hundreds and thousands of dollars of their life savings preparing for these entrance exams, keeping hope, doing the cre-

dential assessments and so on, only to find out that they are still in limbo and have no idea where they are in terms of the scale or the outcome. They may pass the entrance exams—many of them do—but they're unable to get internships and other supports needed to qualify for the standards that are in place and the Canadian experience that they often require to get certification. It can take many years for skilled immigrants to get out of this stage, diminishing their ability to keep up with the fast-paced, ever-changing labour market.

We cannot afford to waste these skills and abilities in our global economy. We need to utilize these skills and position ourselves in the labour market to grow and remain competitive and not drain the economy of lost opportunities. The diversity and global experience that these skilled workers are bringing are assets and give us a competitive advantage.

Bill 124 does not compromise the existing standards and practices administered by regulated bodies; it only creates a level playing field for all. No one is asking to ease or lower standards. We want a fairer, more open and transparent system of entry into the professions, and we want the entrance criteria in a way that is understood by all. This bill is setting the direction as a baseline for all of the regulated professions. It is a credible effort that is supported by the public and many of the institutions themselves.

MCS hosted a forum back in July with our community partners, including business and funding representatives, and over 400 people attended to show their support for Bill 124 shortly after it was announced in the Legislature. After that, in the fall, we collected 450 petitions signed by individuals showing their support for this bill, which we delivered to the minister. All they want is for this bill to be passed. They need to have something in place for them without any further delay. They are tired of being the bouncing ball for everybody concerned.

Bill 124 is a landmark bill and is long overdue. And it's a welcome change. It is the seed of hope that many skilled immigrants want in order to move forward. The issue has been studied in some shape or form and recommendations have been made, but with very little impact or change with regard to moving forward. As stated, this bill, as written, provides an opportunity to effect change, and I encourage you as members of this committee to become a champion of change and support this bill moving forward.

1850

We cannot allow this to happen by just leaving this on the side and playing with the delays and tactics that can happen that often stifle very progressive thoughts and initiatives that governments take. Bill 124 provides the provincial Legislature and all of its members an opportunity to come together in this term of office and to support this bill becoming law as fast as possible. It is time to act, and you have the power to make it happen. Supporting Bill 124 now is the right thing to do for all parties. We urge you to support Bill 124 as it is written and recommend final passage to the Legislature. It is

critical and important to the lives of skilled immigrants and their families and to the labour market in Ontario.

There are many critics who will say that this bill does not do enough. Maybe so, but there are a whole lot more supporters out there. It may not address all of the recommendations in even the Thomson report. The Thomson report speaks to independent appeals of the registration decisions made by professional regulatory bodies, which are an important element of the process; fairness and accountability that are also only a piece of the puzzle—

The Chair: You have about half a minute.

Ms. Iqbal: —in improving access to professions for internationally educated applicants. The five principles of fairness are embodied in Bill 124, and these elements are covered by the bill. We therefore encourage you to approve the bill. This proposed bill does not contravene any of the processes. As a matter of fact, it endorses them through legislation and that potential.

Given the time, I would like to say that applicants—

The Chair: Thank you. It's the time now. I'm sorry.

Ms. Iqbal: Thank you. I appreciate the opportunity.

The Chair: Yes, Mr. Levac?

Mr. Levac: I understand we don't have a hard copy. Can we ask the deputant to send the copy through the clerk so we can distribute it?

The Chair: Absolutely. Would you be able to send a—

Ms. Iqbal: Yes, I can send it to you. I'm sorry, this is my first time.

The Chair: No, that's absolutely fine. But it would be helpful to members. In case they have any questions, they might be able to get hold of you individually as well.

Ms. Iqbal: Oh, absolutely. We'll send it to you electronically.

The Chair: If you could send it through the clerk, the clerk can make sure all of the committee members have it. That would be very helpful. Thank you very much, and thank you for your presentation.

Mr. Levac: To expedite time, if that happens, can we just ask you to get a hard copy or an e-mail copy for us instead of taking up time to do that?

The Chair: For anybody who doesn't provide one?

Mr. Levac: Anybody who doesn't, yes.

The Chair: Okay. For anyone who hasn't, we'll make sure they do. Thank you very much.

PAKISTANI PROFESSIONALS FORUM, CANADA

The Chair: Next on our agenda is the Pakistani Professionals Forum, Canada. Welcome. If you could make yourself comfortable, state your name and then begin your presentation. You have 10 minutes. If you leave any time within that amount, members will be able to ask you questions. I'll let you know when you have about a minute left. Thanks very much.

Mr. Iqbal Merchant: My name is Iqbal Merchant. I would like to thank you for providing the Pakistani

Professionals Forum an opportunity to present here today on this important initiative. The Pakistani Professionals Forum is an organization of about 1,000 members. It helps professional immigrants from Pakistan to integrate into Canadian society. The majority of our members are accountants, bankers and IT professionals.

I am a member of the management committee of the forum and am responsible for professional accreditation matters. I have been in Canada since 1984 and have been on the management committee since the forum's inception about 10 years ago. I am an associate partner with a Big Four public accounting firm. I have a Canadian CA and a Canadian CMA, so I'm in the mainstream, for which I have much to be thankful. However, my personal experiences and those of other members of the forum do shed some light on the issue at hand. I would like to share these with you.

I arrived in Toronto with a Pakistani CA and a CMA from the UK already under my belt. While still abroad, I had read in the UK CMA magazine that the Canadian CMA institute had offered UK CMAs resident in Canada the local CMA designation if they just applied. On arrival, I was told that it was a one-time offer. In other words, the CMA designation was on sale, and the sale was already over before I got here. Note the arbitrariness of the grant of the designation as opposed to fairness. With no other choice at the time, I had to write six subject exams, or about a year and a half. I cleared my exams, got my CMA and have been a fee-paying member for 20 years, although I don't much use that designation.

More interesting was my pursuit of the CA designation, which was more important to me in my public accounting career. As a CA from Pakistan, I was required to take a university course in law, take the core-knowledge exam, attend the school of accountancy and write its exam, write the uniform final exams, get top-up Canadian work experience and then I would have a CA after maybe three years. It was as if I was a 21-year-old with not quite an undergraduate degree.

I decided to take a shortcut. I spent a month or two preparing for the US CPA exam. Accounting does not change much by country and that was a fair commitment of my time. I passed with honours and was placed in the top 120 out of 72,000 candidates. I now applied for reciprocity on the grounds of being a CPA. I was told that the CA institute would have recognized my CPA only if I had obtained it while a non-resident of Canada, a requirement that was not then, but is now, entrenched in the bylaws. Note that this was another roadblock, not an attempt to do what was right and fair. Fortunately, I was working for my current employer, which was one of the Big Eight public accounting firms as they were at that time. They agreed that this made no sense. A lawyer from a prominent Bay Street law firm was brought in to represent me in front of the appeals committee. I was granted reciprocity and eventually a CA, but I suspect only because my employer spent the money on a big-firm lawyer. Note, no justice and fairness for all, only for the lucky ones like me.

What does all this indicate? One could be forgiven for concluding that there is a systemic bias against the foreign-trained professional, especially one from the developing world. We have all read stories in the newspapers about doctors driving cabs, engineers employed as security guards and the like. I am sure that so have the governing bodies charged with the administration of the regulated professions. However, the law of inertia prevents these bodies from taking any affirmative action to correct the inequities.

Moreover, monopolies have a tendency to protect their turf. The government has given these bodies the monopolistic authority to license professionals. It is therefore the government's responsibility to police these bodies to ensure that the authority is not abused and is used judiciously and fairly in light of Canada's immigration policies.

The obstacles an immigrant faces in obtaining local registration are varied and thus require various solutions. What is often required is just out-of-the-box thinking. For instance, the CA institute grants reciprocity to professionals from Japan and Belgium, which may benefit 10 accountants from these countries in any given year. Those who do not qualify for reciprocity include India, Pakistan, Bangladesh, Sri Lanka and the Philippines, which are the source of maybe 90% of all accounting professionals who immigrate to Canada and probably number in the thousands. It is as if a country with one billion people and a few more with hundreds of millions do not know their accounting—a ridiculous proposition that could not be justified with a straight face.

In fact, the whole reciprocity approach is outdated in these days of global mobility. It is unreasonable to attempt to assess the equivalency of designations from 50 or more countries from which Canada might get immigrants in any given year. We could adopt the US approach, which is to allow nearly all foreign professionals to write the demanding final CPA exam. After all, what else could so conclusively establish the competency of the foreign professional as being successful at the same final qualifying exam that the domestic students write? It is not often that I would recommend following the US, but they have got this one right.

Canada probably attracts the highest number of legal immigrants, at about 250,000 per year. Non-recognition of foreign-earned credentials however often results in the selected immigrants going back and only coming back a few times a year to visit family that has been left behind. This practice is so common that a name has been coined for areas with such a concentration of families, "begum pura," which loosely translates to a "women's colony." Thus, all Canada gets out of such immigrants are consumers rather than use of the valuable resource which was the basis of the granting of the immigrant visa.

Moreover, it gives Canada a bad reputation as a country which does not have any need for the skills that other countries cherish and thus dilutes our future immigrant pool. Helping immigrants realize their economic potential is thus in the interest of not only the immigrant, but also in the interest of Canada and Ontario.

1900

So where do we go from here? It is generally realized that the regulated professions have not responded to the realities on the ground. We have a severe shortage of physicians, yet do not see foreign medical graduates filling up the void. A visit to hospitals in the UK or US will reveal disproportionately large numbers of doctors from India and Pakistan, way over their numbers in the general population. In fact, I have a brother, his wife and a nephew, all medical graduates from Pakistan, successfully established as physicians in the US. Why did Canada not benefit from their education, obtained at the cost of hundreds of thousands of dollars borne by a foreign government, especially when we have such great need? The reason is that we have let the governing bodies carry on in their merry way, doing nothing for and, as a consequence, hindering the integration of foreign-trained professionals in the regulated professions.

The introduction of Bill 124 is a positive step and has raised the hopes and aspirations of the foreign-trained professionals. To live up to these aspirations, however, the act needs to be effective. Given the inability of the governing bodies of the professions to achieve any significant fairness so far, the act requires teeth to enforce fairness, if necessary. The following amendments are necessary to give the bill a fighting chance at success in achieving its objectives:

(1) The fairness commissioner is key to making this act effective. An ineffective commissioner will result in no change, only more legislation and more bureaucracy, something we could live without. To ensure accountability and effectiveness, the commissioner should be appointed by the Legislature. The commissioner should report annually to the Legislature on the impact of the legislation on the employment of internationally educated professionals and the success rate of such professionals applying for certification.

The Chair: You have a minute left.

Mr. Merchant: The minister should have power to eliminate unfair registration practices on recommendation by the commissioner.

(2) Establishing of independent regulatory appeal tribunals to hear appeals to rejection is also necessary. The aim here would not be to encourage appeals but to make the accounting bodies more objective in the internal reviews.

(3) They should also name the existing regulated professions in the act, with the power to add more, so that none are left out in the regulations based on undue influence.

It is time for action now. It is time to put the foot down. We should make this meaningful legislation. We should make this effective legislation, not just lip service. We should not let the entrenched interests derail this initiative. We should not let this opportunity pass.

It is fitting that Ontario leads the way on this initiative. I hope that the effects of this legislation will make Ontarians proud and show others the way.

I thank you for your time.

The Chair: That was excellent. We appreciate your comments. If you have a written format that you can provide to the clerk, it will be circulated among the members. Thank you for bringing your comments to the table.

CHINESE PROFESSIONALS ASSOCIATION OF CANADA

The Chair: Next, we have the Chinese Professionals Association of Canada. If we have members of that organization, please sit at the back chairs and make yourself comfortable. Introduce yourself and begin your presentation. If you leave any time at the end, members will ask you questions. So welcome and thanks for coming.

Mr. Thomas Qu: Good evening, Madam Chair and all the respected committee members, staff and ladies and gentlemen in the back. First, I'd like to say thank you for this opportunity to speak on behalf of the Chinese Professionals Association of Canada, who firmly support the prompt passage of Bill 124 in Ontario.

As an organization with over 23,000 immigrant professionals, the majority of them in the GTA, CPAC has ample first-hand knowledge of the barriers encountered by our members to access their professions. For tonight, I'd like to share with you actual stories of three CPAC members, with the presence of CPAC president Howard Shen, who's in the back, and several board and staff members.

The Chair: Can I just interrupt you. Are you Mr. Thomas Qu?

Mr. Qu: Thomas Qu, yes.

The Chair: Okay. Go ahead.

Mr. Qu: The first story is about Frank, a senior civil engineer in China. Frank came to Canada in 2003. He had over 10 years' experience, working on large-scale and high-profile projects. His credentials also included a master's degree in management. He landed his first job in Canada with a construction company. For better career opportunities, Frank applied for his professional engineering licence.

Frank thoroughly researched and gathered all the available information on the PEO application process and the requirements from the Internet and from other professionals who had previously obtained their licences. For over two years, he also put in a lot of effort to upgrade his language skills, prepared all the materials and walked into the interview room with great confidence. To his dismay, Frank quickly discovered that his university education and his international experience could not be properly assessed by his interviewers. Only four out of 14 of the courses Frank took in China were actually accepted. He was advised that he had to redo two thirds of the Canadian undergrad university program in order to satisfy the PEO education requirement within a two-year time frame.

Frank absolutely believes that, despite his university studies and experience abroad, he was denied fair access

to his profession. Ladies and gentlemen, I ask you, is that fair to Frank?

The second story is about Andy. As a leading researcher and practitioner in cardiology, Andy belonged to the cream of medical professionals in China before he came to Canada in 1997. In the 20-plus years of his career, he held significant positions as resident specialist, lead scientist, and professor and researcher in universities. He received his doctor of medicine and master of medicine degrees from China and his Ph.D. from North Dakota State University. He has authored numerous publications, both in China and North America. He has been widely consulted as a leading expert by doctors, specialists and researchers in North America. He has also developed superb communications and language skills. Andy has passed all the required exams in Ontario—all of them.

But for over six years, Andy has been denied a resident doctor position, which is the final hurdle on his way to becoming a fully licensed medical doctor in Canada. There are simply not enough positions available for internationally trained doctors, as only one in 100 internationally trained doctors will be able to get a residency opportunity while every fresh student from Canadian medical schools is guaranteed a residency opportunity.

Such a quota system effectively bars the majority of medical professionals from overseas from being licensed in Ontario. A new graduate cannot and would not bring to the profession the skills and specialist knowledge that an already trained and experienced doctor like Andy can. Andy is with us here tonight. He's already in his late 40s, as you can tell from the white hair.

Ladies and gentlemen, I ask you again, is that fair to Andy? Is that fair to the thousands of patients in Ontario who have been waiting an excessive time? Some of them cannot even get a family doctor.

The third story is about Vincent. Vincent was a fellow of the UK's Institute of Chartered Accountants in England and Wales, the world-renowned institution, before he came to Canada in 1979 with 15 years' experience in auditing foreign subsidiaries of major UK, US and Canadian multinational corporations. However, it did not take Vincent too long before his dream was completely shattered when applying for jobs in Canada, because he was told, "You cannot call yourself a chartered accountant in Canada," and "You do not have Canadian experience."

Vincent felt robbed of his dignity as a professional and humiliated as a person. He firmly believes that his education, training and experience met or exceeded the requirement for being certified as a professional in Canada. Instead of being recognized as a professional, Vincent was reduced, by virtue of unfair rules, to a non-professional status, not commensurate with his skills and abilities.

Ladies and gentlemen, I ask you one more time: Was Vincent treated fairly here in Ontario?

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On a special and positive note, we applaud the supportive stand of the Institute of Chartered Accountants of

Ontario today on Bill 124. The fact that ICAO supports this initiative confirms the need to remove the barriers in the licensing process for internationally trained professionals and the need for Bill 124 in Ontario. Thank you, ICAO and all other organizations, regulatory bodies and individuals who understand the need for and the urgency of this bill.

In closing, ladies and gentlemen, these stories have just illustrated to you the need for more transparency in the licensing process, the need for a comprehensive, one-stop information centre, and the need for establishing a fair and accessible appeal mechanism; in short, the need for Bill 124. Ontario needs this bill, not tomorrow, not next year; we need it today. Thank you.

The Chair: Thank you. You've left just over a minute, so our next opportunity for questions is Mr. Tabuns. Please go ahead.

Mr. Tabuns: Mr. Qu, thank you for that presentation. It was quite powerful.

One of the things you spoke about in the recommendations was the need for an independent appeals body, something that Judge Thomson recommended. Would your organization support an independent appeals tribunal for all professions that would be covered by this act?

Mr. Qu: Well, I know there are a lot of things that can be done and a lot of considerations like people already raised during this consultation process. But I believe what is inside Bill 124 today is a practical and also a balanced approach. So I think the current—I believe we already have the commissioner inside this bill, right? That will probably have a similar function to what you propose. I don't know if that may help to answer your question.

Mr. Tabuns: It does. I should just note that the fairness commissioner can't have any access to individual cases. He actually can't correct errors. The independent tribunal that Judge Thomson talked about gave a range of appeal to those professionals who were not just in the health care area, where there will be an independent tribunal, but applied it to engineers, chartered accountants etc.

Mr. Qu: But again, I said the word "balance," right? Because the existing 34 regulatory bodies already have a certain way of doing things as well. So I said if the government has the capability to provide some kind of oversight and also has an office if people have some kind of complaint or appeal to bring to the commissioner's attention, I think that would be a good start for today.

The Chair: Thank you very much. The time is up. I appreciate your presentation, and thank you for coming in this evening to speak to us.

LAW SOCIETY OF UPPER CANADA

The Chair: Our next presenter is the Law Society of Upper Canada. If you would please take a seat at the end of the table. I'm sure you're no stranger to this process. Welcome. Introduce yourselves if you can, please, for the

record. You have 10 minutes, and if there are questions at the end and you leave enough time, we'll be rotating to the government side. Please go ahead when you're comfortable.

Mr. Malcolm Heins: Thank you. We appreciate this opportunity to address the standing committee on Bill 124. I am Malcolm Heins, and I'm chief executive officer of the law society. With me are Sophia Sperdakos, policy counsel, and Sheena Weir, manager of government relations.

The legal profession has been a self-regulating profession since the establishment of the law society in 1797. The law society was the first institution of its kind created under statute in this province and is one of the oldest continuously operating professional organizations in North America.

Our mandate is to regulate the practice of law and the provision of legal services in the public interest. The Ontario government has a long history of reposing trust in the law society to fill this public interest mandate. It has continued to do so in the recent amendments to the Law Society Act, which were incorporated in what was then known as Bill 14, which was just passed by the Legislature.

In these recent amendments, the law society's public mission and the principles and duties that frame its work are clearly articulated. I've given you in my presentation the sections, section 4.1 and section 4.2, in the Law Society Act. You'll see there that the law society's function is "to ensure that all persons who practise law in Ontario or provide legal services in Ontario meet standards of learning, professional competence and professional conduct that are appropriate for the legal services they provide"—this is our public protection mandate—and that any standards we set for learning, competence and professional conduct are suitable for the provision of the service that's being provided.

In section 4.2, you'll see that we have "a duty to maintain and advance the cause of justice and the rule of law." We have a duty "to facilitate access to justice for the people of Ontario." We have "a duty to protect the public interest." We have "a duty to act in a timely, open and efficient manner." And we are to set "standards of learning, professional competence and professional conduct for licensees and restrictions on who may provide particular legal services should be proportionate to the significance of the regulatory objectives sought to be realized," or, in other words, the services that are being provided by that particular professional to the members of the public.

These provisions make clear that our primary obligation to the Ontario public is to ensure competence and high standards of learning and professional conduct among those who practise law and provide legal services. They speak to the duties of the law society and the requirement that it carry out its functions openly, fairly and transparently.

It is vital to the implementation and maintenance of the rule of law in a free and democratic society that those

who provide legal services and practise law are in a position to provide independent representation to the members of the public. To perform this role effectively, they have to be free from inappropriate influence of or interference from the state or other bodies. Self-regulation operates to minimize such influences and interference.

The Law Society Act, in our submission, achieves a careful and important balance between stating the duties and responsibilities that must accompany self-regulation and minimizing any direct or indirect intrusion or supervision by government. It is our submission that this approach is the correct one and should be reflected in how Bill 124 applies to the law society.

One of the hallmarks of the legal profession's self-regulation is the authority to set and administer standards for admission. This aspect of self-regulation recognizes that the profession itself is in the best position to ensure that all candidates for admission meet the necessary and substantive good character requirements. The Law Society Act and bylaws contain an open and transparent, objective and fair process that candidates for admission and the law society itself must follow. If you look at the processes that are already in the Law Society Act and compare them to those envisaged in Bill 124, you will see that all of the items envisaged in 124, and more, are already articulated in the Law Society Act. At page 5 of the presentation, I've actually set those out for you.

The law society is committed to a diverse legal profession that meets the needs of a diverse Ontario public. It's important to us that qualified candidates from diverse communities and backgrounds, including internationally trained professionals, are admitted to the profession. Candidates for admission to the Ontario bar in fact reflect the diverse demographic makeup of Ontario. For instance, if you look at our candidates for admission in 2006, 19% were visible minorities or racialized, 4.3% were francophone and 1.5% from the aboriginal community. This reflects the general Ontario population, where we see 19% visible minorities, 4.3% francophone and 1.6% aboriginal.

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The law society's admission and other processes protect the residents of Ontario—its first priority—and at the same time are open and fair to all candidates for admission.

This commitment goes beyond admission to practice. The law society's equity adviser in charge of equity initiatives, Josée Bouchard, and her department are responsible for furthering the law society's equity policies and assisting departments within the law society to advance and support equity and aboriginal issues. We develop and provide education and outreach programs to promote equity and diversity in law firms and legal organizations and also in the community at large, particularly the new Canadian community; we're involved with them. We actively encourage students from diverse communities to consider careers in law; we're in the high schools. We provide mentoring opportunities to candidates for admission and recent calls to the bar, including internation-

ally trained lawyers, and we also undertake research and consultations with diverse legal communities and legal stakeholders to promote equity and diversity.

In the comments we made throughout the government's consultation process leading up to the introduction of Bill 124, the law society expressed serious concern about the imposition of an external supervisory authority over the law society's processes. We indicated that it would encroach on the principles of independence and self-regulation, constitutionally protected features of the justice system. While we appreciate and support the government's decision not to implement the Thomson report's recommendations respecting an omnibus appeal tribunal, we are still concerned that certain features of Bill 124 encroach on the principles of independence and self-regulation currently embodied in our regulatory model. These areas of concern include the mandatory audits and reviews of law society processes; the general one-size-fits-all treatment of the professions; and the excessive nature of the fines under the bill, which would have the potential to intimidate regulated professions from applying legitimate objectives of competency.

Given that the law society's own legislation already clearly articulates the society's duty to meet the same objectives as provided in Bill 124—open, fair and transparent processes—and given the importance of ensuring that legislation in Ontario not have the unintended effect of undermining independence and self-regulation, it is the society's submission that the bill be amended to exempt the law society.

Section 13 of the bill gives discretion to the fairness commissioner to create different classes of regulated professions. A class may consist of one regulated profession, and the regulation may impose different requirements, conditions or restrictions on or in respect of any class.

The Chair: You have one minute left.

Mr. Heins: While this provision recognizes the importance of looking at each profession individually and tailoring the requirements to meet individual mandates, it is nonetheless only discretionary in nature.

I want to close by also commenting on the transparency in due process provisions in the bill. Part VII of the act authorizes the fairness commissioner to make orders against the professions. In the law society's submission, the provisions in this part give overly broad powers to the fairness commissioner without ensuring that the process he or she follows is fair and transparent. Section 27 specifically provides that the Statutory Powers Procedure Act does not apply to the fairness commissioner. It would be our submission that either the Statutory Powers Procedure Act should apply to this process or, alternatively, that there be provisions in the bill setting out the procedural fairness rules that will be followed by the commissioner when exercising his or her jurisdiction.

The Chair: I'm sorry. Your time is completed.

Mr. Heins: Let me just close by saying that we think it's important that this bill be passed. We think it's a good piece of legislation, but we have those individual misgivings with respect to it. Thank you.

The Chair: Thank you very much, and thank you for the written submission. We appreciate your comments and appreciate your coming to speak to us this evening.

AHMAD CAMERON

The Chair: Our next presenter is Dr. Ahmad Cameron. Please take your seat at the end of the table. Again, you have a 10-minute time frame. Should you leave any time after the presentation, the government will have an opportunity to ask you some questions. Please introduce yourself for the purposes of our records, and begin your presentation.

Dr. Ahmad Cameron: Good evening, ladies and gentlemen, Chair, and audience at the back. Thanks for giving me the opportunity to speak on this. Let me introduce myself. I am Ahmad Cameron. I come from Brampton. I finally arrived in Canada in July 2001. Earlier, I arrived in January 1999. I didn't get the job, so I moved over the US.

I represent OACETT as a member, whose members have been here earlier. I also represent my AMU Alumni Association, Canada. I also represent IIT Alumni, Canada, and I am a certified e-commerce consultant from the US.

I hold a bachelor of science in physics, a master's in pure physics, another master's in applied physics and a doctorate in turbine blade vibrations.

I have been a recipient of junior research and senior research fellowships based on all-India competitions. I have been a recipient of the young scientist scheme project for my project proposal, awarded by the Ministry of Science and Technology under an all-India competition. I have been the single post-doctoral fellowship holder under mechanical engineering, again in the all-India competition, and the only Indian who represented in the UNESCO-sponsored robotics course at Hungary.

But here comes the next part. After landing in Canada, up till now, made 3,000-plus applications, had less than 10 interviews and was selected in none. I've worked as a labourer, as a driver, as a car cleaner/washer and as an inventory handler for three-plus years at a salary of \$8 to \$12 per hour. However, in the US, I was working for an IBM project at a salary of \$60,000 per annum.

Let me bring to you exactly what I think is a very important aspect of Bill 124, because nobody has indicated this, and I think it is a very important aspect. Ontario is the money basket of Canada. Any loss of Liberal power will seriously affect its funds because the industry funds it, so a loss in Ontario is a loss directly to whosoever is in power. It also has an effect on the federal government.

The next aspect is that the baby boomers are retiring in the next 10 years, so there is an acute shortage of blue-collar skilled labour. Industry requires it. A very fundamental aspect is that all these baby boomers have to be paid pensions. How is the pension coming unless those jobs are filled in by persons like Ahmad Cameron, who holds a doctorate and works as a blue-collar labourer? So that's it. Okay? Let's see what is happening.

This is from Statistics Canada. You can see that between 1980 and 2000, the average earning of an immigrant worker was reduced by 7% whereas the Canadian-born increased by 7%: a differential of 14%. Interestingly, the problems faced by recent immigrants appear to affect mainly individuals with substantial foreign experience. This from a Statistics Canada report.

What happens? We land here and our qualifications are not recognized. A skills demand is prepared by the Canadian government in collaboration with industry. Canadian embassies evaluate the qualifications and award us a visa. The immigrant spends money and time to get the qualifications re-evaluated. Wow.

The need for qualifications equivalency is the next most important aspect. A number of members have indicated this; I'm also trying to. The experience with the WES organization patronized by the government is horrible, to say the least.

I think my member, one of them, is here. I can share—that's a personal experience from WES, but let me tell you it has one of the most sad.

I would not recommend any private organization, because they do not have those kinds of resources to evaluate globally. They are very limited. Hence, no private sector, but Canadian embassies evaluating the skills and qualifications should be used to prepare an equivalence registry.

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Next: Regulated professional associations are not transparent. A number of my friends have already spoken, and I need not add to that. There are no standardized qualifications assessment procedures because there are a multiplicity—well, that's that. There are no standardized experience evaluation procedures. There are no appeals procedures, we have heard. If they are there at all, one has seen that whosoever applied went through. I've read the papers.

There are no annual figures released for IEPs given licence/certifications, even when—let me tell you, more than 70% of OACETT's members are IEPs. I'm a member of that. When I asked them, they unfortunately would not give it to me. So that's the fairness and openness that's there.

Consequently, there is a need for a fairness commissioner appointed by the Legislature. The fairness commissioner should annually report on the performance of professional organizations under a fair practices code, which is not there. The fairness commissioner oversees adherence to appeals procedures, so there should be an appeals procedure for that.

Let me come to a very, very hard question which each and every immigrant faces here: "Do you have Canadian experience?" You see, I'm a proud son of a journalist and teacher. I have been taught to use the right word: It is organized racism, not systemic discrimination, as some say. It is, honestly, organized racism, because I find that the laws of physics are no different in Canada than in the rest of the world; they are the same.

So I find that the government has failed to perform its responsibility. A skills demand list is based on in-depth

industry and market research by Statistics Canada. The government of Canada circulates the skills demand list to all the embassies. The qualifications and experience of an IEP enable Canadian embassies to assess vis-à-vis the skills required for the Canadian market. On landing, the IEP is left to run from pillar to post. It amounts to falsification and duping.

Required government actions: Establish a repository of equivalence qualifications based on its embassies' feedback from the majority of countries from which IEPs have been migrating. Establish through universities, not through private training shops, bridging and mentoring programs, because we know that these private training shops have political alibis and political patronage. So let's have fairness even in that.

Required government action: Issue an equivalence rating to IEPs for qualifications at the time of stamping the visa. Issue an experience rating at the time of stamping the visa corresponding to the IEP's primary skill set. Provide free mentoring and skills upgrading programs.

Let me now tell you just one example of how much money immigrants are pumping in. This is again from the CIC website. On average, this much money is required to be brought in. A family of three members is required to bring in \$15,563. Assuming 200,000 immigrants come in, divided by three, that means this many family units multiplied by \$15,563 is the amount of money which just straightaway comes in as hard cash. Leave aside the fees, leave aside the subsidized labour at which the person works for more than three-plus years, like Ahmad Cameron—

The Chair: You have about a minute left.

Dr. Cameron: —and that's what it is.

I end by saying thanks a lot. There are supporting slides for this. If you want, you can go through them. Anybody who would like to ask a question, I'll be glad to answer.

The Chair: There's time for a brief question from the government side.

Mr. Khalil Ramal (London-Fanshawe): Thank you very much for your presentation. We agree with you about the needs for immigrants, especially the skilled workers in the province of Ontario. But I think you can join me and agree with us that it is very important to pass this bill in order to break down all the barriers.

Dr. Cameron: I totally agree with you, sir. I am all for this bill, but I would like you to strengthen it. I'm all for the bill, and that's what I've indicated. This bill is at the right time, and I totally endorse the bill that is there, but definitely the bill requires certain added things, which I've indicated.

Any other questions?

Mr. Ramal: Thank you very much.

The Chair: Thank you for coming to speak to us this evening and for your presentation. We appreciate it.

SOUTH ASIAN WOMEN'S CENTRE

The Chair: Our next presentation is from the South Asian Women's Centre, if members of that organization

can join us at the end of the table. Again, you have a 10-minute presentation time frame. Please state your names and begin your presentation. If you leave any time within that 10-minute time frame, there will be some time for questions.

Ms. Kripa Sekhar: Good evening, and thank you for giving me the opportunity to present on behalf of the South Asian Women's Centre. My name is Kripa Sekhar. I'm the executive director at the centre. I have with me here two witnesses—Mr. Prasad Nair, who will speak of his personal experience, and Dr. Anuradha Sinha, who will speak of her personal experience—because I feel it's very important for you to hear from those who have had first-hand experiences as opposed to myself. My own personal experience would take an entire book, but I'm not going to throw that at you right now, maybe some time later.

The South Asian Women's Centre fully supports the passing of this bill. We feel it is long overdue. We feel that the government has taken a very bold step in bringing this bill forward and ensuring that it goes through. I can tell you that we work at the grassroots level with South Asian women and their families, and the stories we hear about why they continue to live in exacerbated poverty are largely due to the fact that their educational qualifications have not been recognized in this country, and they end up as cheap labour or underemployed immigrants.

You may wonder why I've got a gentleman and a woman with me here. South Asian women feel the pain of their partners. The male member of the family, who may be very highly qualified, is unable to find work, and comes home totally depressed. It's a family situation that goes all wrong. Quite often, it's the woman in the situation who then has to bear the brunt of all the abuse, the violence, the depression etc. I want you to look at it in that context—the impact that this has, the whole impact of unemployment and underemployment—because the non-recognition of qualifications has an impact on the entire family. So it flows through.

It's also important to remember that most of the South Asians who come into this country come in with at least one or two degrees and are extremely professionally qualified, and that in fact Ontario is missing out on a real pool of good, solid resources, a global pool of wealth that would enrich this province greatly. I think it is time to end discriminatory practices. It is time to move forward. It is time to ensure that people have a good standard of living in this province, and Ontario is known for that. Canadians are known for being generous people. We honestly hope that you will move forward with this.

I'm now going to hand it over to Dr. Anuradha Sinha for her to tell you her story.

Dr. Anuradha Sinha: I immigrated to Canada from India in February 2002 as an internationally trained professional in the skilled and independent category. Professionally, I'm a research biologist with a Ph.D. degree from India, specializing in the area of cancer research, four years of post-doctoral training from the

McArdle Laboratory for Cancer Research at the medical school of the University of Wisconsin, USA, followed by several years of research experience in various academic research laboratory settings in India. After coming to Canada, I first got my credentials accredited by World Education Services. The Canadian equivalency of my degree has also been given as a Ph.D. from a recognized university back home.

I already knew that the profession of biologist, especially the profession of research biologist, is not a regulated one in Canada. Therefore, I tried my level best to get into a suitable research biologist, experimental biologist or laboratory biologist position, even an entry level position, or a research scientist job in academia here in the universities and the colleges. But from nowhere could I get any positive response. So many explanations were given, like over-qualified; I got to hear "over-qualified for a college-level position." University-level position: "Your experience doesn't match with ours." Fine, I agree with that, but being a scientist and internationally trained, especially from another North American university, USA—there I was offered a post-doctoral research position, totally based on my research experiences, educational background and publications.

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Anyway, after I tried my level best to get any job, I started volunteering as the next step to gain relevant Canadian experience. I have been volunteering for about four years at various organizations of repute here in Toronto, like the Centre for Addiction and Mental Health, the South Asian Women's Centre and the Peel HIV/AIDS network. I could just talk very briefly about my volunteerism at the Centre for Addiction and Mental Health, a teaching hospital affiliated with the University of Toronto, as you all know. At the College Street site of this centre, primarily an academic research site, I volunteered for about two years in the capacity of research assistant in the area of molecular neurobiology and the genetics of schizophrenia disease. I'm glad to let you know also that within those two years of my participation in active and productive benchwork research, I was able to co-author a research publication in the peer-reviewed Journal of Schizophrenia, along with three renowned faculty members, professors, of the University of Toronto, in 2005.

However, I don't want to prolong much. This is just one example I gave; there are many, but I don't have time. The bottom line of this whole message is that I'm still without a dream job of my passion, but of course, still with a lot of hopes and dreams. Last but not least, I survive here in this country on the assistance on Ontario Works, social assistance, since I am unemployed, not even underemployed. Thank you.

Mr. Prasad Nair: I would like to thank the honourable members of this committee for giving us an opportunity to make a submission on this important topic. My name is Prasad Nair. I immigrated to Canada in July 2003 with my wife and our four-year-old child. We both have a master's degree in social work and a bachelor's

degree in law from India. Before coming to Canada as skilled immigrants, we were both working in the field of social work.

I would like to use this opportunity to share my personal experience of surprises here in Canada. I came to Canada in summer 2003. The moment I stepped out from the airport, I fell in love with this country. The brisk air just passing me assured me that I had found a good place to live. After initial settlement, we started our job search. We came to know that the social work profession is controlled in Ontario by the Ontario College of Social Workers and Social Service Workers, and that to be recognized and to practise as a social worker, a registration with OCSWSSW is mandatory. The internationally trained social worker's qualification is to be assessed by the Canadian Association of Social Workers as equivalent to the Canadian qualification.

The Chair: You only have about a minute left.

Mr. Nair: Thank you. So I started my job search. Within a short span, I got 14 interviews. I got selected as a child protection worker with the children's aid society in London, and they asked me to submit the equalization certificate. When I approached OCSW, they denied and rejected my application, saying I don't have equal Canadian qualification. Though I have a master's degree, they're not even granting me a bachelor's degree.

Then what happened? The other surprise is that my wife got equalization; we both studied together. When I inquired what this was, they said, "Each application is assessed separately, so it can happen." So then I said, "Okay, that can happen. Then what about my senior, who studied just before me from my university? My junior also got the accreditation. So what about me?" They denied. There is nothing. They said, "It may be an honest error. I can't turn it around. There is no way."

Agreeing to the terms of fate and destiny, I started working in a factory, through temporary agencies, in night shifts, during the daytime searching for better jobs, babysitting and cursing my decision to immigrate to Canada. I saw engineers, medical professionals, chartered accounts and other esteemed professionals from around the globe sweeping the factory floors and lifting and sorting in our warehouses. And I saw taxicab drivers who were extremely qualified.

On many occasions in the past, we as a family tried several times to commit suicide, but maybe because of our social work background, maybe because of our counselling background, we sorted it out.

I spent all of my life savings here. I borrowed money from the banks. Then I borrowed money from OSAP. I borrowed everything. Then I went to the university bank, and at that time my qualification as a social worker was recognized by the University of Toronto. My qualification as a social worker is recognized by York University. My qualification as a social worker is recognized by WES, but not my professional agency. Good. Then—

The Chair: I'm sorry. I've let you go on for about two minutes more than you should have, so I'm going to have ask you—I think you've given us a very good picture of

the frustrations you have. Unfortunately, because it's such a late night and we're running behind, I'm going to have to say thank you for your presentation. Unfortunately, the time has run out.

Mr. Nair: No problem. Thank you very much.

The Chair: Thank you for coming. We really appreciate your experience.

Mr. Nair: I urge the government members to support this bill and let it pass. Let it be a starting point.

The Chair: Thank you very much. Thank you for your presentation.

CENTRE FOR INFORMATION AND COMMUNITY SERVICES OF ONTARIO

The Chair: Next we have the Centre for Information and Community Services of Ontario. Welcome. Please make yourself comfortable, state your name for the record, and begin your presentation. If there's time at the end, we'll be asking questions. Thank you.

Mr. Danny Mui: The Centre for Information and Community Services of Ontario, CICS, appreciates this opportunity to convey our position on Bill 124 before the members of the standing committee. My name is Danny Mui and I'm the executive director of social services of CICS, a social services agency delivering a wide spectrum of services to immigrants and refugees in the greater Toronto area for over 37 years. Every year we provide services to over 19,000 new immigrants via our eight offices located in the greater Toronto area.

Now, I'm not going to repeat those emotional stories brought forward to the committee by the previous speakers and the clients themselves, but, ladies and gentlemen, what I want to tell you is that, to us, those are not stories. Those are our real-life experiences that we encounter on a daily basis.

CICS is in a strong position in supporting Bill 124. We support the principle of the bill to advance equitable access to regulated professions in Ontario. We are also delighted to see the introduction of the Access Centre for Internationally Trained Individuals, a long-awaited one-stop centre that provides a range of services to internationally trained individuals, employers and social service agencies like CICS.

We noticed that there are sayings that the bill will lower the professional standards of certain professions in the province. I would like to bring the attention of the committee members to the fact that the majority of the internationally trained professionals coming here to Canada are not asking any regulatory bodies to lower their standards. What they need is a mechanism with accountability and transparency to ensure that they will be treated in a fair and equitable manner. Bill 124 has responded to the needs of these immigrants working hard to settle and integrate in Ontario.

Part VI of the bill specifies that a regulated profession is required to provide information about its regulation practices, that said information is to be provided in a timely fashion, and that the regulated profession is to

specify any related fees. Parts VII and VIII also require a regulated profession to ensure that decisions are made within a reasonable time, to provide review or appeal of its decisions within a reasonable time, and to provide opportunity to make submissions with respect to a review or appeal.

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The establishment of a fairness commissioner to assess and oversee auditing and compliance with the legislation ensures that there will be a mechanism with accountability established here in Ontario.

On behalf of CICS, I urge the committee to recommend the bill to the Legislature as written. Introduction of Bill 124 is an ice-breaking move by the government to address the needs of newcomers, especially internationally trained professionals. It may not provide all the answers we need to solve every problem, but it leads the way to create a transparent, objective, impartial and fair registration practice that the immigrant community has been waiting for for years. As an immigrant service provider, we would like to see the recommendations contained in the bill executed in the near future.

Dear committee members, CICS asks for your support of the bill by recommending it for third and final reading. We thank the committee for this opportunity to present our position on this very important legislation.

The Chair: Thank you very much. You've left some time for questions, so because there is a significant amount of time, we'll probably split it into three minutes each.

Mr. Tabuns: Thank you very much for making the presentation today. As you may be aware, Judge Thomson, when he brought forward his report, recommended that independent review tribunals be set up to hear appeals, not just in the health care professions but in the other regulated professions as well. I see that as a very important safeguard for internationally educated professionals and a way, frankly, of bringing discipline to the regulatory bodies. What does your centre feel about that section of the Thomson commission?

Mr. Mui: Under such circumstances, the feeling or the position of the centre is that we need something that is balanced and practical, and we need something that not only new immigrants but all the regulatory bodies as well will accept. As I said, we've been waiting so long for something to happen. It doesn't take away the importance of all the previous recommendations from previous reports and whatever, but Bill 124 is balanced, practical and doable. That's why we suggest that we should support it now, but it doesn't mean that we shouldn't improve the situation on an ongoing basis.

Mr. Tabuns: So you would have no objection to the introduction of independent tribunals?

Mr. Mui: It is not whether I would support the suggestion of such a tribunal; what I'm saying is, as I've heard the law society saying, they do have a way of regulating, but right now you can see Bill 124 as a complementary bill that helps all the regulatory bodies do what they have to do. By introducing an entirely new

mechanism, it will take a longer and longer time. I think the immigrant committee is kind of fed up with waiting. That's why we have the position of supporting this bill.

The Chair: Thank you. Questions from the government?

Mr. Levac: Mr. Mui, thank you very much for your presentation. In an opportunity to say thank you to the other deputants because of the time constraints, I want to thank them as well. In my records, it's evident and quite clear in the deputations, at least today, that except for a few issues and amendments that are being requested, the overall support is a definite yes for Bill 124.

I want to pick up on what Mr. Tabuns is saying. In some cases, I'm getting the impression that it seems that issue is a must for inclusion in the bill for it to be accepted. Am I hearing clearly that you're saying that if it's not included it's not a concern of yours, that those are issues that can be addressed once the bill has been passed? Once the bill is in legislation and we can move forward, this piece of legislation that's being proposed, because it's the first time—and it's about time. This is what the deputants are saying. And you're saying that you're not averse to addressing what Mr. Tabuns is saying, and that is, if there comes another time, another opportunity down the road to tweak the bill, improve the bill and evolve the bill, that's not a problem to you?

Mr. Mui: My response to your concern or question is, if you are referring to the independent tribunal of appeal, what I'm saying from a social service provider's point of view is that we don't know how long it would take for us to establish or to include such independent bodies under certain circumstances. Our point of view is, after reviewing Bill 124, we think this bill is good enough—not the best one—that we would recommend the government pass it and execute the recommendations as soon as possible. Something has to be done now.

The Chair: Thank you for your presentation. We very much appreciate it.

YAN GAO

LIPING GUO

CHENG LIANG HUANG

The Chair: We have three people on the schedule for the next time slot, Yan Gao, Cheng Liang Huang and Lisa Guo. Please join us at the table. Again, introduce yourselves for the record and begin your presentation when you're ready. You have 10 minutes. If you leave any time at the end, members will be able to ask you questions. Welcome, and thank you for coming.

Ms. Yan Gao: Good evening everyone. My name is Yan Gao, and here are Lisa Guo and Sammy Huang. We are here to present ourselves as very ordinary immigrants, but we believe we are good examples of thousands of immigrants, especially in the last 10 years.

Twelve years ago, before I came to Canada, I was in the States and finished my master's degree. Before I went to the United States, I finished my medicine degree in

China. Before we sent the application, we drew a beautiful picture of life in Canada. I don't want to share the same story, like many others, but we have to say that the reality was not as good as the dream picture. It took us three years to register with the PEO for my husband, even though he had a US degree and experience in the US.

My situation was even worse. My alumna told me that even if she passed the qualification exam, with CPSO, which I believe you know, she still had no chance of getting an internship at a hospital. She told me the game is as simple as Catch-22.

More luckily than many other immigrants, I got a job as a community worker at WoodGreen Community Services. Every year, our centre receives more than 5,000 newcomers from different countries who brought their dream just like I had. In the meantime, I've witnessed thousands of them work as general labour, taxi drivers, waiters or waitresses. After many years of doing non-professional-related jobs, it's very difficult for them to go back to their professions. As well, I experienced a number of heartbroken, sad stories that happened to immigrants because of serious depression, keeping a job they don't like, or they feel low self-esteem.

For many years, community workers, groups and agencies have helped and advocated for immigrants to go back to the professions for which they had the education and background. Among many factors, helping them register with a regulated body is one of the biggest factors. This is why, when Bill 124 was brought up—same with every community worker. I'm very glad our government is this brave, to make this progress. I sincerely hope this will become a milestone to all newcomers and immigrants. Hopefully, newcomers won't repeat the sad stories again and again. I hope we are well known in the world for protecting resources, but in the meantime, I hope we don't waste the most valuable resource: people.

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After a close look at the bill, some questions come to me, just like the questions from the audience at the public forum held by different agencies: How can we ensure this is true fairness to access regulated bodies? Do we have any indicators? Do we have any monitoring systems? What is the time frame for doing this? I feel these are very simple questions that come to our mind, and from very common sense. I just feel we need to add something to make it true and practical from the operational side, based on my experience.

Just like before, some speakers mentioned—Mr. Tabuns, you mentioned, and Judge Thomson mentioned—and suggested that one is an independent appeal tribunal. I strongly support that. Based on my daily experience—and I deal with a lot of cases regarding EI, employment insurance, or Ontario Works—there are two different systems. With Ontario Works, whenever we have an appeal case it goes through an internal review, but employment insurance has an independent appeal system, an independent hearing committee from outside of HRDC. From our experience, we feel that if the case

goes to the internal review, usually the reviewer stands for their own case, stands for their own decision. But an independent hearing committee usually stands in the middle to listen to both sides of the story and gives more chance for applicants to state their points. We feel this is fairness.

So I hope the hearing committee works closely with the community members and makes the bill really work for the immigrants and really meaningful.

I pass my turn to Lisa.

The Chair: There are about four minutes left.

Ms. LiPing Guo: Hi, everyone. Good evening. My name is Lisa Guo. I came to Canada in 2002 as an independent immigrant. I don't represent any party, but I just want to say something on the issue which most new immigrants are facing. You see myself as an example. I was a teacher in university in my home country. I have a master's degree in psychology. But in Canada, I find it's almost impossible for me to resume my profession. My qualifications and experience are not accepted here in Canada, and I may have to go back to university to take courses or programs. After that, I don't know how long it will take before I could eventually find a teaching position because I don't have so-called Canadian experience.

Getting new qualifications and Canadian experience takes at least a couple of years, even more, and how many people can support their family during this period? What I have seen is that a lot of people are doing survival jobs. This is a waste to society and to the individual as well. This is definitely not the purpose of an open door to new immigrants.

I'm inspired that government has recognized this issue and is trying to do something. The article provides some guidelines but is not enough. We do need to have equivalency established between international and Ontario standards.

Thank you for listening. The next couple of minutes I give to Mr. Huang.

Mr. Cheng Liang Huang: Good evening, ladies and gentlemen. My name is Samuel. I hope Bill 124 will be more practical, meaningful and effective. This is from my personal experience but not limited to it. I have not gotten a job one and a half years after landing. This is the biggest challenge in my life up to now. None of my friends and former colleagues had thought of such an embarrassing situation.

I graduated from one of the top five universities in China. After graduation, I worked for 16 years in electronics. I had been a technical support engineer at a world-leading telecommunications manufacturer and, later, a senior quality manager at the world's number one semiconductor manufacturer. Besides that, I'm also a Six Sigma black belt, certified by the American Society for Quality. People like me should be quite qualified to be named as a professional engineer. I had never been unemployed, but the fact is that I'm unemployed at this time.

There are both reasonable and unreasonable causes. I believe new immigrants do not get fair rights to access

the job market. For example, it is illegal to practise engineering in Canada without first having obtained a licence from the provincial or territorial association. In the meantime, as I know, to get a licence as a professional engineer in Ontario, one year's professional work experience in Canada is a must. Due to this obvious controversy, access to the job market for professional engineers with international backgrounds is denied.

I also cannot understand why an engineer qualified by the Canadian Council of Professional Engineers cannot be automatically qualified as a professional engineer in Ontario. I also cannot understand why Canadian experience is so important when the economy has already globalized.

In short, I believe that there are barriers for professional engineers with international backgrounds to getting a professional job in Canada. Accordingly, there is a great waste of precious human resources in Canada. It's not a waste for the person only; it's a waste for the whole country.

Nowadays, when my friends ask me for advice on immigration to Canada, I'm not wanting to but I unfortunately have to say, "Don't immigrate to Canada," because all these guys have good opportunities in China.

The Chair: Is that the end of your comments?

Mr. Huang: Yes, that's all.

The Chair: I've given you a little bit of extra time because I know that you each had something to say, but there's no time left for any questions, unfortunately. I apologize for that. Thank you very much for bringing your personal experience to the committee. It means a great deal to us, and we appreciate your comments and your making the effort to come in and share with us.

WORLD EDUCATION SERVICES

The Chair: Next we have World Education Services, Tim Owen. If you want to take a seat at the end of the table, Mr. Owen, and then provide us with your name for the record. You have a 10-minute time frame, and we'll be able to ask questions if you leave us some time at the end. Welcome, and thank you for coming.

Mr. Timothy Owen: Thank you for the opportunity to be present here and share with you my perspectives on the proposed act. My name is Timothy Owen. I'm the director of World Education Services, an independent, not-for-profit organization which is recognized and mandated by the province of Ontario to provide international academic credential evaluation services. It provides services to newcomers, but also to the institutions and organizations to which they apply—employers, academic institutions, regulatory bodies—for people who want access to use their credentials in a number of different ways.

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We validate the authenticity of the documents that have been earned outside of Canada and provide a statement of their Canadian equivalency. We also provide a number of services online which allow us to transfer

documents electronically—transfer verified documents and the completed reports—and allow individual users to access the status of their reports online as we're doing them. We've just introduced a preliminary online equivalency which allows people to look up the equivalency of their credentials prior to having a formal report done for them.

We've been operating this service since 2000, and during that time we've assessed the credentials of about 25,000 individuals, about 10% of whom are still residing in their home country. We work very closely with the groups that I mentioned before, the regulatory bodies included, and act as a third-party service for many of them, including about 25 of the regulatory bodies and about 60 of the educational institutions, and hundreds of employers. And if we're not doing direct service for them in that way, we do also share information about practices in documentation and provide training for some of the regulatory bodies that do the assessment of credentials in house.

We do this through a database of information that we've accumulated over our years which contains about 20,000 different precedents of academic documents we've reviewed and data on over 40,000 institutions that issue those documents.

We're a member of the Alliance of Credential Evaluation Services of Canada, which is important for reasons I'll get into. It's a pan-Canadian association of the provincially mandated evaluation services in Alberta, British Columbia, Manitoba, Ontario and Quebec. In three of these provinces, these services actually are part of the provincial government. The purpose of this alliance is to promote fair, credible and standardized methods in assessing foreign credentials. To do so, we adhere to a set of guidelines and good practices which are consistent with international standards developed by UNESCO, and to which Canada has been a signatory, although Canada has not yet ratified the convention that these standards were created at.

These principles, in some ways, reflect the principles in the act. They speak about adequate access to the assessment of credentials for individuals; the provision of standardized, clear, rational and reasonable procedures and criteria for the assessment; clearly articulated time frames; the right to appeal; and reasonable costs. The website of the Canadian Information Centre for International Credentials contains full information on these standards.

In the years that we have been providing services in Ontario, there have been many significant advances and improvements in the way in which regulatory bodies assess international qualifications and register and license people. Through much of the funding provided by the province of Ontario, there have been bridge training programs which have provided new models of assessing, upgrading and supporting individuals to facilitate their licensure. In fact, a consortium of regulatory bodies—you probably have heard from them, or will—the Ontario Regulators for Access, have developed and shared best

practices in recognizing international qualifications and facilitating licensure. The government of Ontario has introduced a report card model to monitor the processes and progress of regulatory bodies. I think all of these steps have had a very positive impact on the ability of new Canadians to become licensed. What Bill 124 does, I believe, is to provide an opportunity to ensure that these changes become part of the permanent landscape and, as such, it is critical.

We know that even with all the positive changes that have occurred in the past, the situation for internationally trained professionals is still not as it should be and needs considerable improvement. Too many individuals don't know where to go, what steps to take, what documents they need to produce, how long it's going to take them to get their credentials assessed or their licensure to take place, how much it will cost, and probably more importantly, even at the end of that process of licensure, they have no idea whether or not they're going to be finding a job in their profession, which is probably in many cases the biggest problem of all. We know that the entry-to-practice requirements across the professions are not consistent. In some cases they're dependent on processes which are not transparent, nor consistently applied. Bill 124, I believe, provides the legal structure to ensure that there are common standards developed, applied and maintained across the board.

The bill will not solve all the problems that internationally trained professionals face; even if the professionals are licensed, they still face barriers in finding employment. More work needs to be done to help employers improve their hiring practices. The announcement earlier today by the Minister of Citizenship and Immigration to fund the Maytree Foundation and the Toronto Region Immigrant Employment Council to undertake work in this area is welcome. I think it will go a long way in building bridges with the employer community, which would be consistent with the principles behind Bill 124. However, the bill is a critical step towards ensuring equity in access, and sends a strong message to everyone that the government is serious about making improvements.

The bill will put into law a set of guidelines that in many ways reflect the internationally accepted guidelines and principles that I referred to earlier. It will promote and ensure transparency, consistency and accountability in the application of existing and new registration practices. It would create a process to review and monitor these practices. It would provide for information services to assist people to find their way through the complex web of eligibility criteria and procedures that lead to licensure.

It is important that the bill does set out a number of principles, principles such as transparency, objectivity, timeliness and rights of appeal. The fairness commissioner, in consultation with regulatory bodies and other stakeholders, should develop the definitions and application of these principles, and put in place standards of service that are attainable and measurable. Presumably

these standards will be included in regulations and administrative guidelines that follow the passing of the act.

I think the proposed access centre also fills an important role in the provision of information and assistance to those wishing to become licensed. As I mentioned earlier, too often individuals do not know where to begin to start the process of registration, a process that can be complex and confusing even for a graduate of Ontario schools.

The functions of the access centre should be carried out in a manner which facilitates the provision of information and assistance to those people who are still residing in their country of origin, so that by the time they have arrived in Ontario, they will have been able to complete as many steps towards registration as possible in their profession.

The access centre should work in collaboration with the many community organizations that already provide general information and referral services, as well as with my own organization, WES, in order to develop a seamless delivery system which begins overseas, so that individuals and families, when they're first planning to move to Ontario, can get the information they require.

To conclude, I'd like to say that I think the bill is very important and should be passed with the consent of all parties. In its implementation, we should recognize and build on the many important and successful pilot initiatives of the recent past. We should ensure that the application of the principles in the proposed act is consistent with existing international and national guidelines for the assessment of international credentials. We should ensure that the proposed access centre coordinates its activities with others doing related work. And we should recognize the continuing need to work with employers so that those who do become licensed are able to find work in their field.

Thank you for your attention.

The Chair: Thank you very much. As there's not even a minute left, I think we'll just ask for the next presenter to come to the table. So thank you for your presentation. I very much appreciate it.

COMMUNITY HOME ASSISTANCE TO SENIORS

The Chair: Our next presenter on the agenda is Community Home Assistance to Seniors, Fatemeh Akdari. Welcome. Thank you for coming. Please take a seat at the end of the table. Again, you'll have a 10-minute time frame for your presentation. Please introduce yourself for the purposes of the record. When you're ready, please begin.

Ms. Fatemeh Akdari: Madam Chair, honourable members of the standing committee, ladies and gentlemen, my name is Fatemeh Akdari. I appreciate the opportunity to appear before this standing committee.

Although I am not a demographer or an economist, all of my personal and professional experience tells me that Bill 124, the Fair Access to Regulated Professions Act,

will be one of the most pivotal developments ever to bear on Ontario's newcomer community. Furthermore, as the minister's statement makes clear, this bill would contribute enormously to the economic and social wellbeing of our province and our country.

Please let me begin with a few words on my personal background and experience. My husband and I came to Canada in the early 1980s—both with degrees in engineering obtained from a prestigious and reputable university in Turkey—in pursuit of a better life. Members of this committee who remember their history will have a sense of the political travail in my native land of Iran that led to my decision to immigrate to Canada.

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In Canada, I could not find work in my field; the obstacles were too many. I did not have Canadian experience, my credentials were not fully recognized and I was instructed to repeat some of the courses I had already finished. The price for each university course was sky-high, and I did not possess the necessary funds to go back and repeat the lessons I had already learned.

For highly trained male immigrants, we know of the proverbial and sad outcome of work delivering pizza. For women, it is often, as it was for me, menial work in a fast-food restaurant. My dreams of a better life were shattered. I have not calculated my financial losses; however, the emotional loss was overwhelming. I felt frustrated, useless and depressed.

Eventually, and with the help of various courses of study in college, I found work in social services. For 17 years, and in several different positions, I have been working closely with Ontario's newcomer communities. From thousands of different stories, I have become intensely aware of the personal, human and societal costs of the problems that Bill 124 promises to address.

Even my current position is instructive, albeit work dealing with senior citizens in newcomer communities in York region. In their native countries, the great majority of individuals I counsel and try to assist had obtained both the highest levels of education and professional careers that brought the satisfaction of significant economic and social contribution to society. Arriving in Canada, these individuals, in various ways, soon discover that the accomplishments of a lifetime count for naught given the lack of recognition of their credentials and their experiences.

For many internationally trained professionals in their fifties or sixties, there is a further element of disappointment and loss—the fact that the same fate has met the children they have sacrificed to raise and educate to the highest levels. Imagine yourself in Canada, trained as a research biologist and now in your late fifties, with no work and generally isolated, living with a son or daughter with higher degrees in computer engineering, but forced to work as a painter. You came to Canada in the hope that whatever the cost to you, life would be better for your children. But now, at best, the hope will have to rest on your grandchildren.

In hearing about such sad matters, some respond with the remark that immigrants should have realistic expecta-

tations. There is an element of truth in such a comment. However, that truth is much more complex than meets the eye. Among life's hardest decisions is the decision to emigrate, to pick up everything, to abandon all that is familiar and comfortable and secure. Is it not understandable then, perhaps even vital, that the decision be helped by the expectation, however rosy, of an immediately better future?

What has been too often true to date is that when immigrants present their educational credentials here, and in spite of the fact that these credentials bear the seal of schools established hundreds and hundreds of years ago, they find them being discounted, if not completely disregarded, by Canadian institutions that have been in existence for mere decades.

It is critical, from my point of view, that the approach and system to be put in place by Bill 124 be fully informed as to the true worth of education in other countries. Traditionally, our outlook on such matters has been biased by a strong sense of what I might call local centrism, i.e., the view that our educational system is inherently better than any other country.

Ontario attracts more than 50% of the immigrants to Canada. Although highly educated, these immigrants struggle to have their credentials recognized and struggle to secure meaningful employment in the areas they have been educated in. The process of recognition of their credentials is too long and costly to both them and Ontario. The Conference Board of Canada estimates a hefty \$5-billion loss per year due to the failure of recognizing the skills and credentials of new immigrants. In addition, the Royal Bank of Canada suggests that if all new Canadians were fully employed at their levels of education, there would have been an increase of about \$13 billion per year in personal incomes.

With our low birth rate of approximately 1.5 and the aging baby boomer population, we need immigrants to fill the gap in our labour market. In the year 2011, immigrants will account for 100% of Ontario's net labour force growth.

The Chair: You have about a minute left.

Ms. Akdari: Okay. Bill 124, the Fair Access to Regulated Professions Act, would require that 34—I'm not going to read that part; probably you all know about it.

In conclusion, ladies and gentlemen, in my opinion, Bill 124 is just, fair and long overdue. It will have a profound impact on the lives of many internationally trained professionals. As an internationally trained immigrant, I support this bill in principle and hope that the members of this committee will move this bill forward as quickly as possible to foster a greater equity in our community and country. Thank you.

The Chair: Thank you for your presentation. We really appreciate you coming in tonight. Unfortunately, as you used up all the time, there won't be time for questions, but we do appreciate you coming and sharing your experiences with us this evening.

QUINTE UNITED IMMIGRANT SERVICES

The Chair: Next, we have Quinte United Immigrant Services, Orlando Ferro. Welcome. Please begin your presentation when you're settled. You have about 10 minutes, and if you leave time at the end, members of the committee can ask you questions. So welcome and thanks for coming in.

Mr. Orlando Ferro: Madam Chair, members of the committee, I would like to thank you for the opportunity to appear before the standing committee on regulations and private bills to speak on Bill 124, the Fair Access to Regulated Professions Act.

My name is Orlando Ferro, and I am the executive director of Quinte United Immigrant Services, a non-profit organization serving immigrants in central eastern Ontario for the past 20 years. We have been watching the Bill 124 regulation process with great interest and we strongly support the bill.

As an immigrant myself, I have experienced the same struggles many immigrants face when moving to Ontario: the red tape imposed on immigrants by protectionist professional associations and regulatory bodies, the lack of proper recognition of international credentials, the lack of equitable entry criteria into the profession and the barriers associated with the Canadian experience. I would like to take a few minutes to talk about barriers that immigrants face every single day. Due to confidentiality and client privacy, I will name the individuals in my narrative as John and Jane Doe.

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To start, I would like to talk about John Doe, who, having left a successful medical family practice in England, moved to Canada to join his Canadian wife. Having arrived here, he found out that in order to be able to practise medicine, he would have to wait one year as a resident without being able to work; after that, another year or more as a hospital trainee resident; and consecutively another year under the supervision of a Canadian doctor before he would be considered to apply for the Ontario College of Physicians and Surgeons.

That story had not the happy ending of the fulfilled Canadian dream. John and Jane Doe, after months of frustration, decided to leave Canada and move to England. In the meantime, the city of Belleville, already having a shortage of professionals in the medical field, saw another family doctor retiring.

Another case relates to a prominent engineer from Pakistan with post graduation in Germany. He moved originally to Toronto, and after months trying to obtain his credentials recognized to the level of internationally acceptable training, he moved to Belleville to work in a trade capacity in the fibre optics field under the supervision of a Canadian engineer recently graduated from a Canadian university. Unfortunately, John Doe, the engineer from Pakistan, with post-graduation and a Ph.D. from a European university, did not have the Canadian experience.

The stories are many, and I personally followed up in many of the cases and, distraught, saw their outcomes. I

would not be able to relate all of them in the 10 minutes allowed—not even in 10 hours if I had the time.

Bill 124 addresses most of the issues faced by immigrant professionals, and that is the reason we believe the bill should be made into law without delay. Bill 124 incorporates key recommendations of Judge Thomson's report, which called for a fair registration practices code either in statute or regulation, and for periodic reviews of registration practices by regulators. One of the key components of Bill 124 is to correct the front-end problem of registration by ensuring that the practices are transparent, objective, impartial and fair.

Under the act, a regulated profession would be required to provide information to individuals applying for registration by the regulated profession, including the amount of time the registration process usually takes, requirements for registration and fees. A regulated profession would be required to ensure that it makes registration decisions within a reasonable time. It would also have to provide written responses, written reasons and internal reviews or appeals within a reasonable time. Training would have to be provided to individuals assessing qualifications and making registration decisions or conducting internal reviews or appeals as specified in the act.

We are concerned that further delays will continue to compromise opportunities for internationally trained individuals to succeed in the pursuit of the Canadian dream. The bill creates a more equitable opportunity for internationally trained individuals to access their professional fields. This bill could be of some advantage to diminish the lack of professionals in health care throughout the province, alleviating the suffering of the population waiting in long lines to access essential services. This bill would also resolve the labour shortages that afflict many areas in the economy.

The bill includes an access centre that would provide information to a range of individuals and groups and that would conduct research, analyze trends and identify issues related to the purpose of this act.

What is not clear is the relationship between the centre and the commissioner or the ministry, and what would be done with the centre's research and analysis. Quinte United Immigrant Services recommends that the centre should be tied specifically to the commissioner's office or to the Ministry of Citizenship and Immigration to give its work legitimate standing.

In conclusion, Quinte United Immigrant Services believes that Bill 124 overall represents a step forward in correcting inequities and unfair practices faced by internationally trained professionals. The bill is effective. We urge you to support it and to recommend it for third and final reading.

Quinte United Immigrant Services thanks the committee for this opportunity to share our concerns. Our recommendations have been made in the spirit of supporting Bill 124 and not to delay the process to make it into law. Delaying the passage of this bill into law will just give continuation to the frustration among foreign-trained professionals. Thank you.

I would like to get off my script right now and add a few comments. I've been watching this committee tonight and I had the opportunity to see some of the regulating bodies come into this House to expose their concerns on this bill. I'm probably not going to name some of those, but I just have one comment. The Law Society of Upper Canada: I have had experiences with them when I first moved to this country, being a lawyer trained internationally. I had the Florida Bar law economics office. What they said—and I was fuming, and that's why I'm here; I'm sorry, but I really have to say that—about their openness, fairness and transparency, I completely and totally disagree with that.

I just have one more thing to say: If those associations are so progressive, if they are so transparent, so open and so fair, they shouldn't fear this law.

The Chair: Thank you. We have time for a question. We're on the official opposition.

Mr. Klees: Thank you for your forthrightness. You should feel free to name others, if that's what you want to do, because we're here, really, to get to the bottom of why newcomers have such difficulty.

I have a very practical question for you. I'm concerned that this bill is so much lip service and sets expectations that, once again, will let people down. Here's why: It's one thing to get a registration; it is yet another thing to get a job. We heard from someone here tonight who went through all of the registration process and still cannot get a job. So my question to you, with all of the practical experience that you have: If there was one thing that you would see as a practical step that government could do, apart from this access to registration, what would that be?

Mr. Ferro: Basically, there are many barriers that immigrants face when they first arrive in Canada. We have to cross each of those steps one at a time. The first one is to make sure that they have their credentials. Once they have this, they have an edge on the competitiveness that they will find in the marketplace. By crossing this first step, which this bill would provide, the fair access to their credentials, then the second stage would be up to the government to create—I wouldn't even say "to create" an act; you can't create an act to control the labour market—but through an educational process there would be a possibility that employers would be more accepting of newcomers.

I can give you an example of what we're doing in Belleville at this point in time. We tried in many different ways to make sure that the local community would have different ideas on immigration. Belleville is still not as progressive a city as Toronto, and they still have a concept that immigrants come to this country to be on welfare. We tried in many different ways, through educational campaigns, and nothing seemed to be working. Finally, we decided to have a different approach, an economic approach. We partnered with the Royal Bank and we decided to take some of the federal improvement programs or implemented programs, such as the investors, such as entrepreneurial, and start marketing Belleville as a destination in different countries so that those people applying to come to Canada would move in. We did this

presentation to the chamber of commerce, we did this presentation to the local economic groups, and they saw the advantage and the potential that immigrants bring to the economy, the tax base, the generation of more employment. This is one step that maybe the provincial government would also be in agreement with.

The Chair: Thank you very much. The time is up. We appreciate your comments. Thank you for coming to speak with us tonight.

THORNCLIFFE NEIGHBOURHOOD OFFICE

The Chair: Next we have Thorncliffe Neighbourhood Office, Jehad Aliweiwi. If you can please have a seat and state your name for the record. I apologize if I didn't pronounce it properly. You have 10 minutes, and if you leave some time before the 10 minutes are up, members will be able to ask you some questions. So welcome, and thank you for coming.

Mr. Jehad Aliweiwi: Thank you, and I just want to apologize for the unedited version that I handed out. I didn't realize that I needed to make copies, so there might be some mistakes. Please disregard; that's not important.

Thorncliffe Neighbourhood Office appreciates this opportunity to present before the standing committee on regulations and private bills on Bill 124. My name is Jehad Aliweiwi and I am the executive director of Thorncliffe Neighbourhood Office. We are a community-based agency providing various services to residents of Thorncliffe Park and surrounding areas.

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Our neighbourhood has the honour of being the home of more Ph.D.s. than anywhere else in the country. In 2004, the *Globe and Mail's* Jan Wong did a 10-part series called "Tales from the Towers: Life in Thorncliffe Park." She follows the lives of 10 newcomers and brilliantly and quite sadly chronicles their repeated and failed attempts to get their credentials recognized. They were the taxi driver, the guard and the cashier. All are honourable professions—my father was a taxi driver—but that is not why most of us came to Canada.

These 10 individuals and the 30 women who are currently enrolled in our bridging program to assist them in obtaining equivalency to their early childhood education certificate appreciate this bill and celebrate it.

You have heard, I'm sure, from many on the need to strengthen the bill. I agree that there is room for enhancements. However, I cannot believe that Ontario does not have this act in place to begin with. I can't believe we still have to actually make a case that we need to have these kinds of guidelines in place.

I want to preface my endorsement of this bill by saying that this is the first time in my career that I appear before a committee debating legislation that I am not opposing and I am not anxious about its impact on our communities. I tell you, this is a wonderful change. I am speaking before this committee in full support of this legislation.

I want to congratulate Minister Colle on this significant milestone in the life of immigrants and refugees in this province. This is a step in the right direction to this long-standing form of injustice. It is a creative and corrective process. Dedicating resources to its implementation and having the fairness commissioner's authority to enforce it is bold and hopeful.

That there is a wide and costly shortage in skilled labour in every corner of this province and that there are thousands of qualified and highly trained newcomers driving taxis, guarding malls and waiting tables is a fantastical and colossal failure of public policy at the highest level. This legislation, I believe, provides a frame with resources to move this forward. The absence and/or the absencing of qualified newcomers from the labour market is having a costly impact on the economy and society. Many have stated that throughout the evening. Despite the high percentage of highly educated residents in our community, their participation in the labour market is barely keeping them above the poverty line. In fact, many are not, despite holding full-time jobs.

The Orenstein report, released recently, has painted disturbing pictures of the concentration of poverty among newcomer communities. The existence and persistence of poverty in our communities is due primarily to stubborn barriers to access to suitable employment. The slow and, often, lack of credential recognition is at the heart of the conditions of creating inequality and disparity at every level.

Although previous generations of immigrants were significantly less educated than today's immigrants, they did significantly better and were able to live the Canadian dream much faster. Today's immigrants are well educated, speak several languages and come from urban centres and major cosmopolitan cities like Karachi, Mumbai, Cairo, Dubai, Nairobi and Manila, yet they are fairing miserably in labour market participation. Exclusion from the labour market is not unlike exclusion from proper housing or access to health care and education. It is a form of discrimination, no doubt.

Do not think of the intended target group as a lot that needs help. Please view them as partners in building a stronger economy, safer neighbourhoods and healthier individuals and families.

Few things elate the spirit and lift ones morale more than a job in one's field. I implore you to be part of the process of making the dream of a better life for thousands of new immigrants a reality. I believe the passage of this bill is a first step toward that. I thank for the opportunity of appearing before you this evening.

The Chair: Thank you. We have a few minutes for questions. If we could get a brief question from Mr. Tabuns and then a brief question from the government, we'll stay somewhat on time.

Mr. Tabuns: Thank you very much for the presentation. I appreciate you taking the time to come down and speak to this. One of the things Judge Thomson recommended was independent appeal tribunals for all professions. They exist right now for the medical profes-

sions but not for the others. Would your office support Judge Thomson's recommendation?

Mr. Aliweiwi: We would definitely, but I think there is a framework provided. I'm hopeful about the fact that there is a fairness commissioner, and I'm hoping that has a bit of teeth to enforce some of the things that are required. I don't disagree with Judge Thomson, but I think this is a different thing. If we had implemented Judge Thomson's recommendation, I don't think we would be here, to begin with.

The Chair: Thank you. Government?

Mr. Ramal: Thank you, Jehad, for your presentation. I think it's very important legislation. It must have impressed you very much in order to change your position from opposition all the time on legislation to support. So then do you see that this legislation, if passed, will eliminate the barriers facing many immigrants from your experience?

Mr. Aliweiwi: This is definitely a tool that will move us in that direction. There is no question there is an absence of any other available opportunity. I think this provides one and we should all welcome it. I definitely welcome it. I've told Minister Colle in the past that I'm not a big fan of government policies. On this particular one I have congratulated him and, I'm the first to say that the government has done something right at last.

Mr. Ramal: Thank you very much.

The Chair: Thank you for coming. We appreciate your comments this evening.

SABA NASIR

The Chair: I'm going to ask our next presenter, Saba Nasir, to come to the table. You will have a 10-minute time frame. If you leave any time at the end, members will have a chance to ask you questions. Welcome, and thank you for coming. Please begin.

Ms. Saba Nasir: Good evening, everybody here. I am pleased to present my personal opinion on a few concerns that I have as an internationally trained individual. To give context to my concerns, I would illustrate with my personal experiences.

My name is Saba Nasir. I came from India three and a half years back. My educational background: psychology honours, masters in social work from the University of Delhi, India, and pursuing a Ph.D. program from the Indian Institute of Technology, Delhi.

With regard to my work experience in India, I have been actively involved in the non-profit sector. Areas of work have been research, policy planning, service delivery in rural development, mental health counselling and urban conflicts. In Canada, in a period of three years I have had four intermittent contract jobs, which I got after one year of intensive volunteer work in the non-profit sector, and subsequent to getting the accreditation from the Canadian Association of Schools of Social Work in Ottawa and the Ontario College of Social Workers and Social Service Workers, I did get my MSW equivalency.

So I was quite fortunate. However, all jobs prior and subsequent to the accreditation and registration have been entry-level designations, such as project assistant, addiction counsellor, service coordinator and crisis counsellor, and in spite of the accreditation and registration and the Canadian experience, I have yet to find a full-time permanent professional position. I have not received even any acknowledgement or interview calls for positions for which I qualify based on my education, skills and experience.

Bill 124 has indeed attempted to respond to the existing concerns pertaining to the registration practices and promises to present elements of transparency, objectivity, impartiality and fairness woven across it. Above all, it needs to be meaningful and effective for those it is intended to serve. The following concerns are important to consider in this regard, namely:

(1) To incorporate within the registration process an element of meaningful utilization of professional expertise/skills/experience of internationally trained individuals while they wait for the accreditation and registration formalities to be completed.

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To illustrate my point, while the internationally educated social work professionals, IESW, program at Ryerson University offers a certificate in Canadian social work practice—all the details are available on the website I have given—it will become more meaningful if this program is integrated within the process of registration, enabling individuals to familiarize themselves with the understanding of the nuances of the social system within which they are now preparing to seek employment and serve while they wait for the accreditation and registration procedures to conclude, instead of relentlessly volunteering in an ambiguous environment—which, by the very fact of being a new immigrant, seems intimidating—for want of a professionally appropriate orientation.

Professional orientation is the responsibility of the regulating body. If it has the duty to regulate, it should take the responsibility to orient. Only then can lapses in practice be judiciously monitored.

Highly educated and experienced individuals are left to experience the indignity of pleading for an often meaningless volunteer experience to illustrate Canadian experience on their resumé. My concern is best illustrated by my favourite example, which is as follows:

How does it help if a professionally trained medical doctor finds herself or himself worthy of being offered only an opportunity to volunteer as a ward assistant to prove his or her calibre as a fully qualified doctor from another country? On what basis is the capability or skills as a physician being assessed and rated if he/she is volunteering as a ward assistant?

A sense of meaningful utilization is the greatest reward a well-trained individual can be offered. Unemployment or underemployment while waiting for accreditation and registration, if addressed by meaningful orientation programs by the regulatory bodies, can

address the stress problem among new immigrants. Public health statistics show how new immigrants arrive with better health status than the average Canadians and how fast they deteriorate below the national average. Logically guessing, the surge in stress is indeed a scientific factor adding to this statistic. Also, the subsequent social costs straining the system—for instance, increasing incidence of domestic abuse and even violent incidents in new immigrants due to rising frustration amidst a feeling of hopelessness due to lack of direction and development in economic life—can be curbed to mutual betterment of all the stakeholders. An immense hidden social cost can be taken care of with meaningful investments in helping integrate them properly, along with accredited qualifications.

Therefore, this particular point is that the bill needs to incorporate within it a stipulation to hold all regulatory bodies responsible for providing orientation to the internationally trained individuals, just as they are mandated to regulate and accredit in order to ensure excellence in service delivery. Only after due orientation can the husk and rice be separated and fairness be truly incorporated within the bill.

(2) Training of the assessors is a very important clause in Bill 124. However, I would want to draw attention to the importance of simultaneous focus on educating prospective employers in different industries—education, health, non-profit sector, banking, hospitality, travel and other business houses, media industry etc. Prospective employers need to change their stereotyped mindsets and develop the capability to assess the potential of internationally trained individuals as prospective employees.

Accreditation and registration is to no avail if the prospective employers are not educated about the immense potential internationally trained individuals might have. I am speaking out of first-hand experience that no registration or accreditation helps, as employers often lack the capability to assess internationally trained individuals or professionals.

The undue emphasis on networking works as the single most crucial obstacle for internationally trained individuals. Indeed, networking seems okay if it is just a minor element of job-seeking, but when it becomes the be-all and end-all for employment opportunities, we are on our way to the acceptance of a complex social problem of unbridled nepotism. Eventually it is likely to lead us into corruptive employment practices in which merit—based on objective and fair assessment of ability, potential, skills, quality and education—will become a casualty. Deterioration in quality of service delivery will be a natural outcome of such practice, with intelligent and deserving minds feeling the unjustified marginalization and adding to the social costs that unjust treatment can lead to, such as mental and physical health issues, domestic violence and anything else that economists and sociologists are capable of defining as social costs.

The eventual loss in profits of organizations too is a natural outcome. Introspection by prospective employers

is a necessary important step towards incorporating transparency, objectivity, impartiality and fairness.

Therefore, in summary, my second point is that the bill needs to incorporate within it a stipulation to educate the prospective employers.

To be meaningful and effective for anything, it is first to be experienced as meaningful and effective. As an internationally trained individual, I did not experience any sense of effectiveness or accomplishment even after I got myself accredited and registered, due to the absence of the two core issues I have presented today before the committee; namely, meaningful and effective orientation alongside the accreditation and registration process for the aspirants, and mandatory orientation of prospective employers in all sectors of industry.

I thank everybody. I know my note of thanks is right there. I take this opportunity to be greatly appreciative of this step which the government has taken, and I'm hopeful for the concerns to be addressed as well.

The Chair: Thank you very much. We appreciate you coming in this evening and providing your comments.

If Mr. Klees would like to make a brief question, we have a little bit of time, but not very much.

Mr. Klees: I just want to thank you for your presentation. I think you've touched on a matter that I've raised throughout the committee hearings, and that is that it's one thing to get the registration, but there have to be some very practical steps taken that will ensure that people actually get meaningful jobs in the profession for which they are accredited or registered. I appreciate you highlighting that. I hope the government members are listening. People have referred to this bill as a framework. I'm going to be very positive—by nature, I'm a positive person.

Mr. Sergio: So you're going to support it.

Mr. Klees: Yes. Actually, I will, because I'm hopeful that you will also accept some positive amendments that will make this bill much better, and that the government will undertake to do what this person today has told us is so important, that we understand that it's not enough to register someone or to get them the credentials; they have to have access to the profession for which they are accredited.

The Chair: Thank you for your presentation. We appreciate your comments. Unfortunately, we've run out of time, but we do want to thank you for bringing your opinions forward.

METRO TORONTO CHINESE AND SOUTHEAST ASIAN LEGAL CLINIC

The Chair: Next we have the Metro Toronto Chinese and Southeast Asian Legal Clinic, Avvy Go, the clinic director. Welcome. You have 10 minutes for your presentation. If you leave any time at the end, the members will be able to ask you questions. Please go ahead.

Ms. Avvy Go: I know you have heard from individual immigrants with heartbreaking stories about their struggle in Canada. They are the reason why we're here

tonight, so I would urge you to remember their stories when you go through your clause-by-clause review.

To start, I would like to commend the government for introducing Bill 124 in order to address one of the most significant challenges facing many immigrants today, and that is the lack of recognition of their skills and education.

While Bill 124 provides the foundation for addressing the issue of accreditation, missing from the bill, however, are some of the important building blocks that are necessary to make the accreditation process truly fair, open and transparent. So my comments and recommendations are going to focus on some of the key ingredients for creating such a process. I would refer you to my written submissions with an attached list of recommendations. I'm just going to highlight a few here.

First of all, the bill does not give us a list of regulated professions that it will cover. I recognize that the list can evolve over time. However, we do not want to see professions being unnecessarily dropped off the list by successive governments that may not have the same view or support the principles behind the bill. So we are recommending that the government should consult with community stakeholders before establishing the list of regulated professions that will be governed by the bill.

The bill should also provide that the government cannot remove any regulated profession from the list without first consulting with community stakeholders and without it being first recommended by the fairness commissioner.

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The bill provides that a regulated profession has to give the applicant an opportunity to make submissions on an internal review or appeal if the application for a registration is refused. But it is up to the regulated profession itself to choose whether to go with an internal appeal or review, and what format the submission should take. The only exceptions to this rule are the health care professions, which are not governed by this bill but by the Regulated Health Professions Act, RHPA. They have an independent body, the Health Professions Appeal and Review Board. I'm of the view—and I guess I have to state my bias; I am a part-time member of HPARB, but I'm not speaking as a board member tonight. We believe that HPARB provides a model of independent oversight that should be set up for all the other regulated professions. So we believe that the bill should provide all applicants from all the other professions a similar opportunity to appeal negative registration decisions. I guess I have to add that because the bill does not deal with the regulated health professions, the last thing we want to see is the regulated health professions trying to lobby the government to amend their bill to take away the right to appeal to be consistent with this bill. The only way to avoid that is to give everyone the right to appeal. That's our second recommendation, and I guess it's in keeping with some of the suggestions that there should be an independent tribunal set up for this purpose. We support that.

The third issue is around the assessment of qualifications, which is probably the most important compon-

ent of the bill. Yet the provision dealing with this issue is surprisingly lacking in substance. Given the importance of this bill, we believe that there should be more specific requirements established in the legislation itself, and so we believe that it would be a good idea to set up a fair registration practices code within the bill which will address, among other things, the principles governing the assessment of qualifications, specific standards for assessment, so that the law society cannot come and tell you that they have a fair process when in fact they don't.

The bill also deals with the fair registration practices commissioner. There are a number of issues arising from this. First of all, it's not clear to us why the fairness commissioner should be given the power to create different classes of regulated professions with different qualifications, since the principles for registration outlined in the act are already so broad and the commissioner has such a general function to review, audit and monitor compliance. So we need some clarification on that issue.

Secondly, I think that to be effective, the commissioner must have all the powers he or she needs. Part of the way of keeping the commissioner accountable is to make the commissioner report on his or her work in order to ensure accountability and transparency. So we recommend that the commissioner should report annually to the Legislature on the effectiveness of the bill, including the effectiveness of the auditing and reporting mechanisms, and make recommendations on how to improve these mechanisms. The report should also include statistics on success rates of application for registration and certification by each of the regulated professions, as well as by the health professions. The bill limits the power of the commissioner to intervene in individual cases, but it also bars the commissioner from seeking standing in all applications, even when some of the cases may raise systemic issues in the public interest. So we think that in some situations the commissioner should have the right to intervene in appeals.

The bill also creates an access centre for internationally trained professionals, but other than stating what it does, it really doesn't tell us much about what the access centre should do and how much in resources is going to be given to the centre. So we recommend that perhaps one thing that you can consider having the access centre do is assist those who are having trouble with the registration process, to act as an advocate for these individuals. The access centre should also report to the public about its functions, its findings, its information and so on.

These are some of our key recommendations. Again, I want to commend the government for bringing forward Bill 124, but to make this important first step meaningful, I think the government should make sure that the bill will in fact achieve its stated goal. To address one of the questions that was raised earlier, about people getting registered but not getting jobs, I agree that that is an issue. That's why, in our conclusion, we remind the government that what we really need is a comprehensive legal and political strategy, including an employment equity strategy, to bring about real and substantive changes in the long run.

The Chair: Thank you. We have a little bit of time left, so a brief question, starting with Mr. Tabuns, and then the government.

Mr. Tabuns: Thanks for the presentation. The independent review tribunal—could you speak about its importance in ensuring that this act is effective?

Ms. Go: Sure. Speaking from my experience with HPARB, that is a board of independent lay people, meaning that no members of HPARB are members of the profession, so it's truly independent from the profession itself. We hear appeals directly from decisions that were rejected by the various health colleges. It's a very effective way of ensuring that the decisions are fair and that there's procedural fairness granted to the individual. If you only give individuals an internal review, obviously it's done internally, and there's no independent oversight. I guess maybe the only remedy would be going to court to seek a judicial review, which many people cannot afford to do, especially because they can't enter these professions. So it's very important that you just give people outright a right to appeal, and that will truly make the process open and transparent.

The Chair: Mr. Ramal.

Mr. Ramal: Thank you very much for your presentation. It shows you've studied the bill very well. I think your concerns will be taken and addressed, hopefully, in the future. But I want to just ask you a question: Even if we don't change anything in the bill, will you still support it?

Ms. Go: I think it is an important first step. If we have the bill, then we can build on it, right? But I think you might as well get it right the first time.

Mr. Ramal: I agree with you 100%. But even though we will still have a good, progressive bill—

Ms. Go: Right. It is better than nothing.

The Chair: Thank you very much for your comments. We really do appreciate it.

YEE HONG CENTRE FOR GERIATRIC CARE

The Chair: We have our final presenter for the evening, which is the Yee Hong Centre for Geriatric Care, if you would like to join us at the end of the table. Make yourselves comfortable, and please introduce yourselves after you're seated. You have 10 minutes to make a presentation. If you leave some time within that 10 minutes, members will be able to ask you questions. So welcome, and please begin when you're ready.

Dr. Joseph Wong: Thank you very much for this opportunity to address the committee on this very important Bill 124. I am Joseph Wong. I'm the founder and chairman emeritus of the Yee Hong Centre. Next to me is Florence Wong, who's the CEO of the centre.

I just want to give a very brief introduction about myself and why I'm here tonight. I actually got my M.D. from Albert Einstein College of Medicine in the States, so technically speaking, I was also a foreign-trained medical graduate. I'm glad that there were enough resi-

dency and internship positions at the time when I came back to Canada to be able to join the medical service here. The reason why I came back to Canada is not because I was not able to make enough money in the States. As you know, the pasture is greener on the other side. The reason why I wanted to come back to Canada is because Canada offers a more humane system in medical services. So universal health access is what I was looking for, and what I wanted to put myself to work in. After I came back, I worked in university teaching hospitals, and I came across a number of other foreign medical graduates whose qualifications were equally as good as our Canadian graduates. So I really think that some of the biases against foreign medical graduates are quite wrong.

Many people have presented heartbreaking stories about immigrants who were not able to find jobs or go into professions that they were trained for in other countries, but I'm looking at Canada's, and particularly Ontario's, interests. As the population ages, we know that every country has to look for immigrants. In the not-too-distant future, all the countries will be competing for immigrants. As a matter of fact, we know Australia already buried its white Australian policy a long time ago, and the United States, in the past several years, has been talking not about the melting pot but about mosaic, about multiculturalism. Although they are 30 years behind Canada, they are now catching up, and I would say that the rest of the world's countries will probably be competing for immigrants very, very soon—sooner rather than later. So if we in Ontario and Canada have a system that is tailor-made to make sure immigrants find comfort as well as a welcoming system here, I think that Canada would have an edge in attracting skilled immigrants to come to this country. I think this is very important in considering Bill 124, which I believe is a big step ahead of a lot of other countries.

As a health care services provider in the GTA, the Yee Hong centre delivers a continuum of services to seniors of Chinese origin, but also long-term-care services to other communities: South Asians, Japanese and Filipinos. We interact with and employ internationally trained health care professionals on many, many occasions. Of the over 997 staff in our centre, three quarters of them are directly engaged in health care delivery. Among them, close to 100 are registered nurses and around 50 are registered practical nurses, while the rest are engaged in other personal care and support services. In addition, we have over 25 physicians affiliated with the Yee Hong Centre, in our nursing floors and also in our community clinics. There are a great number of health-care-related professionals with Yee Hong. Our experience in working with them, and also in training them, probably would give you some idea of how important this whole field is. If we do not have a good Bill 124 to attract these people, and also to retain and make maximum use of their potential and their talents, we would be losing a lot. Not only they are losing; Ontario is also losing.

I will ask Florence to give some specifics about the Yee Hong centre, our work, our experience with these

people, our training and various things, and also to give you some specific recommendations we have on Bill 124.

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Ms. Florence Wong: As Dr. Wong said, in the past 13 years we've had lots of opportunities to work with immigrants, foreign-trained professionals, either in their capacity as staff of the centre or as volunteers. We are very proud to say that we have over 1,000 volunteers on a regular basis. So we get to know a lot of them. We get to know their frustrations and their need to get back to their own professions. We'd just like to highlight some of them, which has been shared by the other presenters before us.

The frustrations include inconsistency in establishing deemed equivalency of their training and their clinical experience, as well as lack of clarity in gaps being identified: What's the gap? What else do they have to do? Also, there's a lack of appropriate bridging programs so that they can meet the requirements, and a lack of consistency in assessing the language proficiency of these new immigrants.

When we look at the needs of these new immigrants, they need much more than just information. Of course, they need information on how to navigate the system. Moreover, they need a lot of help and assistance in preparing for the test and preparing for the bridging program, as well as hints on how to get jobs and assistance in getting jobs. Also, we can't forget that they are individuals. Apart from being professionals, they are individuals who have needs to help their family adjust to a new country. So lots of emotional and practical support is required.

Based on our understanding of the needs of these new immigrants and new professionals, we have three recommendations to share with the committee. The first recommendation is that we feel that the act should specify the creation of an independent body to assess academic, clinical and work experiences and language proficiency. Prior learning assessment is the most critical element in any kind of professional credentialing and equivalency. It requires dedicated resources to get a good job done and to ensure that the information is reliable. Look at all the training colleges and universities across the world; we really need dedicated resources to ensure that assessment is fair and objective. Rather than relying on individual professional regulated bodies to do this job, we recommend that a more efficient way is to have a centralized system whereby the credentialing could be done by a central body.

Our second recommendation is that the access centres, as currently stipulated in the act, be given more substantial functions than that of information clearing house or points of referral. When you look at new immigrants, they have a lot of needs. They need a lot of assistance, and we have to ensure that the act addresses their comprehensive needs in a comprehensive manner. In the past six years, Yee Hong has been very proud to be a co-founder of CARE—Creating Access to Regulated Employment—for foreign-trained nurses. CARE has been

proven to be a very successful model in helping foreign-trained nurses to get a job in Canada. We believe that the success of CARE in fact talks about how comprehensive services can make a difference, services including getting them to understand the gap and provide bridging programs, provide assistance and provide ongoing mentoring and emotional support, and language support as well.

The Chair: You have about one minute left.

Ms. Wong: Okay. We hope that the government could use the CARE model for other classes of professionals.

Our final recommendation is that the fairness commissioner should be empowered to address both systemic as well as individual injustices. In other words, we hope that there will be an appeal system. Currently, health care professionals have the option of appealing to the Health Professions Appeal and Review Board. I think a similar process should be established for other professionals, through increasing the role of the fairness commissioner.

I would like to thank the committee for this opportunity to present our position.

The Chair: Thank you very much, Ms. Wong. Thank you, Dr. Wong. We appreciate your presentation. Thank you for bringing your comments forward. We've run out of time, unfortunately, but we certainly do appreciate your presentation. Good evening.

Members of committee, we are at the end of our schedule of deputants for the evening. I want to thank all of the witnesses who came to speak to the committee today. I want to thank the members as well for being so attentive.

The committee will stand adjourned as of now. We begin our hearings tomorrow morning again at 9 o'clock. Good night.

The committee adjourned at 2117.

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**Standing committee on
regulations and private bills**

**Comité permanent des
règlements et des projets
de loi d'intérêt privé**

**Fair Access to Regulated
Professions Act, 2006**

**Loi de 2006 sur l'accès équitable
aux professions réglementées**



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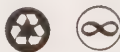
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLS

Wednesday 22 November 2006

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ

Mercredi 22 novembre 2006

*The committee met at 0904 in committee room 1.*FAIR ACCESS TO REGULATED
PROFESSIONS ACT, 2006LOI DE 2006 SUR L'ACCÈS ÉQUITABLE
AUX PROFESSIONS RÉGLEMENTÉES

Consideration of Bill 124, An Act to provide for fair registration practices in Ontario's regulated professions /
Projet de loi 124, Loi prévoyant des pratiques d'inscription équitables dans les professions réglementées de l'Ontario.

CANADIAN TAMIL CONGRESS
ASSOCIATION OF SRI LANKAN
GRADUATES OF CANADA

The Chair (Ms. Andrea Horwath): Good morning. The standing committee on regulations and private bills is called to order. We're here today to continue public hearings on Bill 124, An Act to provide for fair registration practices in Ontario's regulated professions. We will start with our first witness of the day. I want to thank everyone for coming. Welcome to the committee members. I hope we have a positive day of hearings.

Our first group for this morning is the Canadian Tamil Congress. There are a number of representatives. Please come and have a seat at the four chairs opposite. As you get seated, I'll explain the process. State the names of all the people in your party, for the record. As well, you'll have a 10-minute opportunity for your presentation. If you leave some time within that 10 minutes, at the end the members of the committee will have a chance to ask you questions.

Welcome. Thank you for coming. Please begin.

Mr. Chinniah Ramanathan: Thank you for inviting us for this occasion. My name is Chinniah Ramanathan. Our friends here are Dr. Kanagasabai Theivendrarajah and Mr. Surren Balendran. We represent the Canadian Tamil Congress as well as the Association of Sri Lankan Graduates of Canada. Mr. Danton Thurairajah got caught in traffic; he's from the Canadian Tamil Congress. He'll be here in a few minutes.

As Tamil Canadians, we have about 300,000 in population here in Canada. Most of them are in Ontario. A

good number of them are professionals. Many of these professionals couldn't get access to their own professions due to the existing system here, so we would like to point out some of our issues.

We know that there's a shortage of professionals, and studies show that Canada's future strategically lies in tapping the skills of immigrant professionals. Ironically, the province of Ontario has not given them the necessary tools and legislative structural initiatives to tap this existing pool of assets. Canada's current immigration policy makes it easier for the trained and skilled professional to immigrate, but once in Canada, the path to recognition is an uphill task and often these individuals end up underemployed or unemployed. Ontario must ensure that newcomers with foreign professional qualifications gain fair access to registration with their respective professional bodies and that assessments of their credentials are conducted objectively and fairly.

While the Canadian Tamil Congress and the Association of Sri Lankan Graduates of Canada agree with the intent of Bill 124, we feel strongly that further amendments could be made to improve this landmark piece of legislation. We would like to highlight four areas of concern for the committee.

The first one is financial support during training. It's very common in the Canadian Tamil community that many of the foreign-trained professionals are underemployed, as they are compelled to take up different jobs than their own profession to support their family. Thus, their contribution to the Canadian economy is not tapped to its maximum. We feel that Bill 124, under part V, should make provisions to create funding arrangements for training these professionals during the transitional period. This will encourage these professionals to opt for the training programs and move forward towards accessing their own professions.

The second issue is the department for evaluation of credentials. To make the credential evaluation process fair and orderly, we recommend a department within the proposed access centre which will evaluate the equivalence of standards between regulatory bodies and educational institutions in different countries with Ontario. This department should be able to obtain vital information, such as course content and graduation processes from the universities and other educational or professional institutions outside Canada. These data shall be pro-

vided to regulatory bodies to assist them in determining equivalence of credentials.

The third issue is appeal rights and professional advice. The bill does not provide any mode of legal representation or professional guidance to those seeking to appeal decisions. We would appreciate if the province could include a commitment to provide assistance to those who require legal support or representation for their appeals regarding registration decisions. We believe that individuals should have access to an appeal process in regard to registration decisions and that this appeal should be carried out by an independent appeals body. An appeal generally should be a more rigorous and transparent process, and provision should be made to handle it delicately, considering the large impact on individuals' lives. An independent appeals body is more transparent, accountable and also provides an appearance of fairness to the public.

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The fourth issue is special training programs. Most foreign-trained professionals lack the ability to market themselves due to their cultural differences. We also recommend that under part V of Bill 124, through the proposed access centre, the government of Ontario should provide special training programs tailored to suit each professional to get hired by potential employers. This way, the provincial government will be able to get these professionals' contributions to the economy of the province. For those waiting in their home countries for permission to immigrate to Canada, the government should conduct similar online training through the Internet. It should be conducted with the assistance of the universities, colleges and professional regulatory bodies.

My friend Surren will explain more about this need for the training for immigrant professionals who are here right now, already immigrated. He will explain more about that.

Mr. Surren Balendran: We strongly feel that most of the Sri Lankan Tamil professionals who have already come here, and most of the graduates, are underemployed. They are working in the manufacturing industry in order to support their families.

The government should provide some kind of tool for them to look after their families when they are going through the transition. They are going for odd jobs just to make sure they can support their families, so there should be provisions to look after their families as they move to their own professions. That is one part of the current system—the families are not motivated to go up. Some people have an M.Sc., some a Ph.D., and they are either taxi drivers or in manufacturing. That has to be stopped. People should be contributing to the economy.

We see that some sorts of training programs are being done, but they are not necessarily tailored to cater to the professional. They go to employment centres where they provide information on how to write a resumé or how to conduct an interview, but for the professional level, that has to be marketed properly. For a few associations where they do, like Access or maybe COSTI or Skills for

Change, the waiting list is so numerous that people lack to follow up on that one. When they have to go there, the funding is not fully provided through the HRDC for them. I think the province should step up and provide funding for both: in looking after the individual who is going through the transition, as well as to provide funds through some kind of organization that will be tailored to making the professional more marketable and more adaptable to the industry so they can contribute in a much better way than they are.

Mr. Ramanathan: We have a community with high potential, but the government is not tapping it. It's really quite a waste. That's why we are worried.

The Chair: Thank you. Does that conclude your presentation?

Mr. Ramanathan: Yes.

The Chair: You've left a little bit of time for questions, so I would ask the member from the official opposition to ask some questions. You have about a minute and a half.

Mr. Frank Klees (Oak Ridges): I appreciate your submission. Could I ask you to comment on the issue of online training? You talk about the need to be able to do this training online. What is your view if that kind of training were to take place before people even come here? The technology is there, and usually it takes two or three years while someone's waiting in the country of origin to get approval to come here. Why wouldn't those programs start to take place already while they're waiting for approval? What would that do to accelerate this process and get people running on the ground when they're here?

Mr. Ramanathan: The thing is that there is a difference between the type of education we have there and here. Most of them are a British-based system of education, and here it's a North American system. Even the technical terms—for example, engineering. If you take civil engineering and go to a site, some of the terms they use are entirely different from what we use back home.

Mr. Klees: So what if we designed a program here in Ontario that could be used online to do exactly that, to begin to integrate people while they're already in their country of origin?

Mr. Ramanathan: That's why we have come here.

Mr. Balendran: Let's say I come here. When I decide to immigrate to this part of the world—so I am already in the process of coming to this country. The moment I land at Pearson airport, I should be able to contribute something to this economy. If we have been given enough tools and training beforehand—people who want to excel in their life will go there and find out what sorts of things they need to strengthen themselves, to contribute successfully in this part of the world. That's what we are expecting. They should be aware of what sort of corporate culture is here, what sort of things are expected here. That is lacking here. These people come here and don't know anything about it. We are saying they should have some openness, the kinds of things that this part of the world is expecting from potential employees. That's

what we are expecting from the online program, the online practice.

The Chair: Thank you very much. Unfortunately, we've run out of time. Thank you very much for your presentation. We appreciate your coming this morning.

Mr. Balendran: Thank you very much for this opportunity.

Mr. Dave Levac (Brant): Madam Chair, can we continue the trend of yesterday that when anyone doesn't have—I'm not saying this one doesn't, but if future individuals don't have presentations, can we get the hard copies, please?

The Chair: Yes, absolutely. I meant to mention that the presentation was on its way, being photocopied, for this particular group. Absolutely, we'll make sure that happens. Thank you very much, Mr. Levac.

Mr. Klees: Madam Chair, I noticed that in the research, we have a number of these regulatory colleges who gave us no response. I would ask that specific calls be made to follow up on these regulatory colleges. There is no reason why they should not be responding to a request from this committee for the kind of information we requested, so I would ask that our researchers undertake to make direct calls and to report to the committee what responses they receive from these regulatory colleges as to why they're not responding.

The Chair: Certainly, Mr. Klees. It's my understanding that we had about a 75% return rate on the request. Is that correct?

Mr. Klees: Well, we should have 100%. These are regulatory colleges. They owe us that information. It's unacceptable that they do not respond to this committee.

The Chair: All right. We'll ask research, then, with that direction, to move forward and recontact those groups directly.

SKILLROUTE CANADA

The Chair: Can we have SkillRoute Canada Inc. join us? Welcome. Thank you for coming to speak to the committee today. You have a 10-minute time slot, which includes an opportunity for questions if you leave time at the end of your presentation. Please begin when you're ready by introducing yourselves to the committee.

Mr. Shan Palanisamy: Thank you, Chairperson and members of the committee. My name is Shan Palanisamy. With me I have Jim Buchan. We represent SkillRoute Canada. SkillRoute Canada helps newcomers find meaningful skills-commensurate employment in Ontario. We applaud Bill 124 because it helps alleviate a major labour integration issue for newcomers to Ontario.

Before I proceed, I would like to tell you how SkillRoute Canada came about. We have 10 years of regulatory experience and knowledge. We worked for the Ontario College of Teachers for three and half years. During this time, we studied and researched the regulatory industry in Ontario. We formed Reform Data Systems to provide IT and business process services to the regulatory industry of Ontario. We specialize in this

niche market. We know that 80% of regulatory bodies do not have in-house IT services. While working with regulatory bodies, and through extensive research and discussions with associations, immigration consultants, educational institutions, agencies serving immigrants and newcomers themselves, we developed a revolutionary newcomer employment integration solution. That is how we created SkillRoute Canada.

Bill 124 forms an integral part of our solution. It helps alleviate a major integration barrier for professional newcomers. While other barriers may be overcome with time, licensure and certification is a bane of an immigrant's mobility. However, the regulatory barrier is only part of the problem. There are five challenges that newcomers essentially have to overcome:

(1) lack of Canadian work experience that they face with employers;

(2) transferability of my foreign credentials that I have difficulty with when I come to Canada;

(3) lack of language skills. Newcomers come from all over the world. They have communication problems with English and French, and job-specific language skills on top of that;

(4) lack of social networks;

(5) eventually, and ironically, lack of jobs. When you have 262,000 people who walked into Canada last year, 60% of whom landed in Ontario, 50% in Toronto, Toronto is not going to have jobs for you.

What we have is a solution that we have patented, an Internet-based solution that engages newcomers even before they land in Canada. That's what needs to happen, right?

I'm going to take you through some processes that we have developed for our solution. The Internet-based solution registers the individual, and this system is available wherever they are. In the registration process, they provide to us their professional information so we are able to take them through the hurdles they need to come through when they land in Ontario. After registration we take them through orientation, which tells them all the barriers they'll have to overcome.

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Once we determine through this process if skills and language training are required, we would lead and link them to organizations that provide these services, LINC-type programs—ESL, TOEFL.

Moving along, if credential assessment is required, we lead and link them to organizations that supply the services, for instance, WES, and this is where Bill 124 comes into being: licensure and certification. We lead and link them to regulatory bodies that provide the services, and once past that stage, I have my licence to practise in Ontario.

We also provide mentoring services, which are value-added services. Organizations like Maytree provide the edge they need in the workplace.

Finally, we link the candidate who's job-ready to the employer; we match up the skills.

You may see some lines down here. What we do with our system is capture this information as the immigrant or newcomer is proceeding through our system. It's being reported and captured in this data capture and reporting engine. This process that you see is in no form linear. The CLM process is not a linear process in any way, and our system has a built-in algorithm that guides the newcomer through their labour mobility, whether they're in the skilled worker category or the professional category. As you can see, this is an algorithm that's built into the tool and leads the newcomer eventually to employment.

What we have done with the CLM process is effectively integrated the newcomer in their trained profession. But what about my five, 10 or 15 years of experience that I bring to Canada? Am I a junior at this stage? To handle this, we take the international work experience and compare that to Canadian standards. Immigrants bring global work experience to Canada; hence their experience needs to be evaluated in that manner. We developed the WEEM engine for that purpose. What this does is take international work experience, compares that with all the standards we have in Canada—NOC, regulatory experience, regulatory colleges, community organizations. We feed that into an engine and we use expert evaluation techniques to extract information about the foreign work experience and we rate them as whether the individual or newcomer is a junior, intermediate or senior. This is a subjective representation of the model.

How does this model actually work? We use modeling components. NOC, or national occupation code, is available to us. That is a Canadian standard, what you see on your top right. Newcomers bring international talent to Canada, so we use the international standard classification of occupations put out by the UN since 1950. Every 10 years it goes through changes. Those are the two standards or benchmarks that we use and into which we feed the candidate's portfolio. The previous employment information is fed in, international work experience is evaluated based on the WEEM algorithm, and the international work that's been tabulated is evaluated for the Canadian employer, who is now able to overcome the issue of, "Where's your Canadian work experience?"

Just recently, the Conference Board of Canada indicated that annually we lose about \$5 billion in not utilizing their skills. Here's how we are going to overcome that issue.

Finally, what we have through the system is an extensive reporting model which allows us to get extensive information—qualitative and quantitative statistical information that's available for the government of Ontario, where at any given time over time you're able to tell that on the average basis a newcomer coming to Canada with an architectural background or engineering background is going to have six months, a year or two years to integrate effectively into the Ontario economy. What I've just given you is an overview of the business process model. Jim is going to take you through the technology solution that this process delivers.

Mr. Jim Buchan: Thank you, Shan.

We only have a few minutes left, so I'm going to take you very quickly through the front-end technology portion, which essentially shows you the screenshots visually on what Shan has just given us.

The first part is the candidate portal, a candidate, of course, being a newcomer who is already here in Canada or someone who's considering a move to Canada within the next couple of months or the next year, whatever the case may be. The candidate would sign on, as Shan mentioned, in the CLM process, in the registration portion. Once they complete their registration they would be given a user name and password with which they can log into the system and gain access. Once they do that, they would see a screen that looks like this. This is an actual candidate, Mr. Prasad, who is currently going through the credential assessment part of the CLM model. You can see all the different levels down here to the left. They are in order, as per the specific profession or trade that the person has. On the left, you see basic information on the individual. This is the type of individual information that regulatory bodies and employers really want to know. Rather than just having a resumé that's just available anywhere, you really want to have specific information on when the person is coming here, what their rating is, have they taken CLBA or IELTS training—that type of information so that they can make a clear decision. You'll notice, by the way, that some of this is blocked out. That's to adhere to PIPEDA guidelines for security. That's basically the first screen, which is the candidate.

The partner area would basically encompass people like regulatory bodies. If they want to go in and find out specific statistics on people landing in Canada, in certain jobs, occupations, professions, they can do that, if the government wants to do that. HRSDC, specific ministries in Ontario, if they want to do that, we would give them a user name and password, they would log into the system—and here's an example of one. I'm sure you know JobStart. They have a listing of our candidates here. As you can see on the left, it's done by location, when they're getting into Canada, if they've arrived or not, and the specific skill and profession. If they want to find out more information on that individual, on the statistics, they only have to click on the check mark and that gives them a breakdown of where this person currently is in the system. Have they moved to Canada yet? Are they in the process of moving to Canada? If they're in the process of moving to Canada and they're not here yet—let's say they're coming in six months or a year—we would say, "Based on your specific profession or skill, here's where you need to go"—

The Chair: You have a minute.

Mr. Buchan: —"and this is what you need to do." We'd even link them to the specific stuff.

The final one here is the employer. They can log into the system with the user name and password. Here's an example of what a mining-related employer would see upon logging into the system. They can select by mining occupation, profession or trade. You'll notice there that

we have “employable candidates.” There’s a second selection called “international candidates.” If they want to find all the international candidates in the system, they simply click on that dropdown box and it shows all those candidates. If they want to find out the Canadian employable candidates—in other words, the people who have moved through the system, MTCU, credential assessment, licensure and certification, all that information, they click the submit button and it shows them all the people who are in the system that are of the mining-related profession. Once they find the people they want to go to, they simply have to click on this and that would show them a breakdown of that specific individual. Everything above “professional education” is what the employer really wants to know. Here’s the rating that we gave them. If they click on that rating, they would see the breakdown of how that rating came to be. Also, it gives specific information on language, CLBA, what’s their rating, what’s their IELTS or LINC rating, if it happens to be there, where they got their training from, so on and so forth. Everything below that is just a basic abstract of their resumé. With that—

The Chair: Thank you very much. Unfortunately, we’ve run out of time. And we do have a number of people today; it’s a very tight schedule. I apologize for that.

Mr. Palanisamy: We do understand.

The Chair: My understanding from the clerk is that you would be prepared to provide some of this by e-mail and she can send it around to the committee. Is that right?

Mr. Palanisamy: Right. We certainly can do that.

The Chair: We would appreciate that. Thank you for your presentation.

ONTARIO COLLEGE OF SOCIAL WORKERS AND SOCIAL SERVICE WORKERS

The Chair: Next we have the Ontario College of Social Workers and Social Service Workers. Can you please join us at the table? You’ll have a 10-minute opportunity for your presentation. If you leave any time within that 10 minutes, members can ask you questions. I’ll let you know when you have a minute left in your presentation, so that you can begin to wrap up. Welcome, and please begin by introducing yourselves to the committee.

Ms. Glenda McDonald: Good morning. My name is Glenda McDonald. I’m the registrar and chief executive officer of the Ontario College of Social Workers and Social Service Workers.

Ms. Debbie Tarshis: My name is Debbie Tarshis. I’m legal counsel for the Ontario College of Social Workers and Social Service Workers.

Ms. McDonald: The Ontario College of Social Workers and Social Service Workers is the regulatory body for social workers and social service workers in Ontario. The college was established on March 1, 1999, by the Social Work and Social Service Work Act. All of the provisions of the Social Work and Social Service

Work Act were brought into force by August 15, 2000. The college is accountable to the Minister of Community and Social Services. The regulatory framework of the college is similar to the regulatory framework of the regulated health professions governed by the Regulated Health Professions Act. The college’s current membership is over 11,300 social workers and social service workers. Our mandate is to serve and protect the public interest through self-regulation of the professions of social work and social service work. Social workers and social service workers provide services to the most vulnerable sectors of society. It’s critical to the safety of the public of Ontario that all social workers and social service workers meet the standards of qualification in order to be issued certificates of registration; otherwise, the public of Ontario will be at a risk of harm.

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The college understands that the purpose of the Fair Access to Regulated Professions Act, 2006, is to help ensure that regulated professions and individuals applying for registration by regulated professions are governed by registration practices that are transparent, objective, impartial and fair. The college is committed to fair, objective, transparent and accountable registration processes. Since the spring of 1999, the college has received and processed well over 12,000 applications for certificates of registration. Approximately 400 applicants, or 3%, have been refused a certificate of registration with the college as they did not meet the requirements for registration set out in the registration regulation made under the Social Work and Social Service Work Act. The college believes that as a result of the existing requirements and processes, its registration practices are fair, objective, impartial and transparent.

The college also understands that it is intended that the act will accomplish the goal of improving access to the regulated professions for internationally educated applicants. To date, the college has issued approximately 830 certificates of registration to internationally educated social workers or social service workers. Additionally, the college is a member of the advisory committee for the internationally educated social work bridging program offered at the Chang School of Continuing Education at Ryerson University.

Through these actions, the college supports the stated goals of the act, but the college does not believe that the act will accomplish these goals. The college firmly believes that the act will have unintended consequences that will have a negative impact on access to the professions of social work and social service work and a negative impact on the ability of the college to carry out its public protection mandate of regulating the professions in the public interest. The college sets out the reasons for these beliefs in our written submission, which has been distributed to all of you. I will just summarize our main recommendations.

The college believes that the requirements of the act will not accomplish the objectives of the act but rather will add bureaucracy and expense to the process for

registering applicants and create barriers to registration. The act will require the college to use significant resources and funds currently being used for registration in order to comply with the various reporting and audit requirements. The act will also cause the college to convert what is a flexible assessment process to a less individualized and standardized process and to raise the fees paid by applicants.

The college recommends that the government not seek this proposed legislative solution. Instead, the college recommends that the government take other steps to reach the act's objectives, such as providing additional funding to educational institutions so that they can establish or expand bridging programs for internationally educated professionals at a cost that is affordable to such professionals. The college believes that, based on our experience of the internationally educated social work bridging program at the Chang school at Ryerson University, bridging programs provide internationally educated professionals with education and experience that facilitate their transition to employment in the Ontario social services sector.

Our second main recommendation is that we believe the creation of a Fairness Commissioner and the powers provided to the commissioner, including the extraordinary power to audit the college and its registration practices and to issue compliance orders, will have a serious impact on the ability of the college to effectively regulate the professions of social work and social service work in the public interest. The college believes it will be placed in the untenable position of implementing inconsistent or conflicting legislative frameworks and receiving inconsistent or conflicting advice, direction, requirements or orders from the Fairness Commissioner and the Minister of Community and Social Services. In order to avoid undermining the role of the college in regulating the two professions in the public interest, the college recommends that the proposal to create a Fairness Commissioner and, in particular, the commissioner's extraordinary powers respecting audits and compliance orders be reconsidered.

Our third recommendation is that the act provides that it is paramount to any other legislation in the event of a conflict. This paramountcy provision causes concern for the college. The role of the college in regulating the professions of social work and social service work is to ensure for the public of Ontario that social workers and social service workers are qualified to practise the two professions in accordance with established professional standards. There are several potential conflicts and inconsistencies between the act or a regulation made under it and the Social Work and Social Service Work Act or a regulation made under it. The college is concerned that the potential conflicts and inconsistencies between the act and its regulations and the Social Work and Social Service Work Act and its regulations will create confusion and unintended consequences regarding the college's regulatory role and will involve the college in proceedings before the courts while inconsistent and conflicting provisions await judicial interpretation. This

would have a negative impact on the protection of the public from harm.

The college recommends that in order to avoid conflict and inconsistency between the act or its regulations and the Social Work and Social Service Work Act and its regulations, a complementary amendment be made to the Social Work and Social Service Work Act under which the Social Work and Social Service Work Act and its regulations would prevail in the event of a conflict with the Fair Access to Regulated Professions Act or its regulations.

That concludes my formal presentation. Thank you for your attention and the opportunity to address the committee.

The Chair: Thank you very much. There are about two minutes left for questions, so I'll start with Mr. Tabuns.

Mr. Peter Tabuns (Toronto-Danforth): I think it's fairly clear that you see the bill, as written, as being problematic for social workers. My concern is that we have large numbers of people who come to this country who don't get, I think, a fair assessment of their contribution and they become in need of social workers because they're dealing with family disintegration.

You cite a statistic on the number of people who are accepted when they apply and the number who are not accepted. How does that break down between people coming from Ontario colleges and people from overseas? What percentage of overseas applicants are accepted?

Ms. McDonald: We haven't, until very recently, started to track the information between internationally educated applicants and Canadian-educated applicants. Anecdotally, the vast majority of internationally educated applicants are accepted and registered with the college; in fact, a much higher percentage of the Canadian-educated applicants are not.

The Chair: Thank you very much for your presentation. We certainly appreciate you coming in this morning. Thank you for providing the written presentation as well.

0940

REGISTERED NURSES' ASSOCIATION OF ONTARIO

The Chair: Next we have the Registered Nurses' Association of Ontario. Members, there has been a request from this group if their photographer could take a picture. As long as the picture is taken without disturbing the proceedings of the committee, I'm sure everyone would be all right with that. So welcome. As you take your seats, I'll explain again that the process is a 10-minute presentation. If you leave some time at the end for questions, members will be able to ask questions. Please begin by introducing yourselves for the record.

Ms. Joan Lesmond: Good morning. Thank you very much. My name is Joan Lesmond. I'm the immediate past president of the Registered Nurses' Association of Ontario and the past president of the International

Nursing Interest Group. With me today on my left is Valerie Glasgow, who is currently the president of the International Nursing Interest Group, and on my right is Kim Jarvi, who is our senior economist. Thank you again for this opportunity to present to you.

The Registered Nurses' Association of Ontario is the professional organization for registered nurses who practise in all roles and sectors across Ontario. Our mandate is to advocate for healthy public policy and for the role of nursing in shaping and delivering health services. We welcome this opportunity to present our views on Bill 124 to the standing committee. We support this bill's contribution to building a more inclusive and welcoming Ontario. As an immigrant myself, I really do support that, because I can speak to some of those experiences.

More and more internationally trained professionals are choosing to make Ontario their home, including many nurses. RNAO supports the rights of nurses to choose where they live and practise. However, we strongly oppose international recruitment of health care professionals as a government health human resources strategy. It is unethical to poach nurses from other countries, particularly those with shortages and acute health care needs. Recently, I represented our association in Africa, where people were dying of HIV and AIDS, yet still those nurses were being recruited and there were no nurses to deliver the service; hence the point of strongly opposing poaching, but nurses who would like to come to the country, most definitely welcoming them.

The evidence tells us that recent immigrants face barriers in finding jobs that use their training and skills. One of those barriers is the registration process for internationally trained nurses. We believe Bill 124 will contribute to a more equitable registration process. However, we have some suggestions to really strengthen the bill. We've already forwarded you a full submission, but I'll give you a brief synopsis to stay within the time frame.

The proposed access centre for internationally trained individuals can ease the transition of these professionals into their chosen fields. However, RNAO recommends strengthening this body by requiring the centre to hire advocates for internationally trained applicants and requiring the centre to compare and evaluate other countries' regulatory and educational standards to Ontario's in a kind of proactive way.

RNAO supports the requirement that regulatory staff be trained in assessment. In addition, we ask that regulatory staff also be required to complete training in anti-discrimination, anti-racism and cultural competency, because sometimes some of the nurses, even if they're qualified, do experience some type of racism from some of their colleagues within the setting itself.

RNAO also welcomes the creation of the Office of the Fairness Commissioner. We ask that the bill require the commissioner to report annually on the impact of the act on certification and employment of internationally trained professionals.

RNAO supports keeping regulated health professions under the Regulated Health Professions Act and answerable to the Minister of Health and Long-Term Care.

Ontario has taken a number of steps to help internationally trained nurses move through the registration process. One such program is the CARE Centre for Internationally Educated Nurses, which has successfully helped hundreds of internationally trained nurses to prepare for nursing employment in Canada. In fact, I've been on that advisory committee representing RNAO and have met many of the nurses themselves in that process. Bridging programs in universities and colleges also meet the needs of internationally trained nurses by helping them to meet practice requirements in Ontario. RNAO would ask for continued support and expansion of those programs.

Regulatory bodies have some concerns about the accountability requirements of Bill 124. At the same time, Ontarians expect accountability from regulatory bodies. RNAO asks the government to consult with the regulatory bodies to ensure that reporting and auditing requirements deliver effective and efficient accountability.

The system also benefits from a guarantee of an independent appeal for process of registration applications. The RHPA professions have access to the Health Professions Appeal and Review Board, but an independent tribunal should be available for other professions.

It should be noted that after registration, professionals continue to face challenges integrating into the Ontario workforce. While RNAO welcomes the steps taken in Bill 124, it is equally crucial to provide ongoing support programs for newly registered professionals.

Thank you for giving us the opportunity to present to you on such a very important bill. We'll entertain any questions you might have.

The Chair: Thank you very much. You've left about four minutes for questions, so we'll start with the government side.

Mr. Khalil Ramal (London-Fanshawe): Thank you for your presentation. Since you stated at the beginning that it's important to all the newcomers to break the barriers and allow them to integrate and use their professional skills which they obtained in whatever country they came from, do you agree with me that we should establish a level playing field with regard to bodies overseeing conduct or a regulated body, without any exceptions, in order to create a balance, instead of exempting certain regulatory bodies?

Ms. Lesmond: I don't understand the question. Sorry about that.

Mr. Ramal: You mentioned the audit, that it will create some kind of obstacle. You mentioned a lot of things that will erase your regulatory body, which exists right now. I hope that you agree with me on this issue: In order to pass this bill and break all the barriers, we have to create a level playing field for all the regulated bodies in all the professions to allow other newcomers to integrate and fit into the system.

Ms. Lesmond: Most definitely. I think when people choose to make Canada their home, this is something that really should be clear so people could have an equitable playing field and to practise really in the best interests of the patient. I definitely agree with you.

Mr. Ramal: So you see that Bill 124 is the right mechanism in order to allow many to integrate?

Ms. Lesmond: I'll turn that to Kim, our economist.

Mr. Kim Jarvi: I think RNAO's position is that these are steps in the right direction. We have some recommendations to strengthen this, including a tribunal in addition to the Office of the Fairness Commissioner. We would also like to see consultation with the regulatory bodies so that any oversight and audit is efficient and cost-effective.

Ms. Lesmond: The key message is "equitability" here.

The Chair: Mr. Delaney.

Mr. Bob Delaney (Mississauga West): I have one question of clarification on your presentation. You state, and I quote: "However, we strongly oppose the international recruitment of nurses or other health care professionals as a government health human resources strategy." Could you, just for clarification, tell me: On what basis are you making this allegation, and who do you allege is doing it?

Ms. Lesmond: I think in some areas it is quite evident that nurses are imported to fit a gap. So what we're saying is that there are nurses who would like to come and work within this setting, so these nurses could be legitimately welcomed into Canada—

Mr. Delaney: My question was, by whom and from where?

Mr. Jarvi: This is a general problem. Canada is not the only culprit and Ontario is not the only culprit. The International Council of Nurses—

Mr. Delaney: Again, who is doing this and from where?

Ms. Lesmond: I want to make a point very clearly: The International Council of Nurses has also taken that position and there are some countries I can give you—

Mr. Delaney: I understand that, but my question is, by whom and from where?

Ms. Lesmond: I could get back to you with some research and some statistics of the specifics, but for your information, it is happening and what we're saying to you is, we need to look at two things: non-poaching of nurses to Canada, but welcoming those who truly choose Canada to practise. But we'll get back to you about specifics.

Mr. Jarvi: We're not accusing the government of that practice.

Mr. Delaney: Okay. Just as a note, then, could research follow up with this deputant and ask for clarification on this statement?

The Chair: Details of who—

Mr. Delaney: Specifically, by whom and from where?

The Chair: Thank you very much for your presentation. We very much appreciate you coming to see us this morning.

0950

ONTARIO ASSOCIATION OF ARCHITECTS

The Chair: Next we have the Ontario Association of Architects. Please make your way to the end of the table. You'll have 10 minutes for your presentation. If you leave any time after your comments, the members can ask questions. So please begin your presentation by stating your name for the record, and welcome.

Mr. Louis Cooke: Good morning. My name is Louis Cooke. I am the vice-president of regulatory affairs for the Ontario Association of Architects. My colleague here, Hillel Roebuck, is the registrar. I'm pleased to be here today to present this to you.

The Ontario Association of Architects is a self-regulating organization governed by the Architects Act, whose principal object is to regulate the practice of architecture and govern its members in order that the public interest is served and protected. The association is dedicated to promoting and increasing the knowledge, skill and proficiency of its members and administering the Architects Act.

The council is very conscientious of the responsibility of the OAA to have fair and transparent licensing practices. The OAA is a charter member of the Ontario Regulators for Access Consortium, the ORAC, and fully supports the letter issued to Minister Colle on November 3, 2006, by the chair regarding Bill 124. This submission on behalf of the OAA is intended to convey specific comments and observations with respect to the government's proposed Bill 124, the Fair Access to Regulated Professions Act, 2006.

Transparent, objective, impartial and fair registrations practices: The OAA agrees with the premise of the proposed legislation in its intent to ensure that regulated professions have registration practices which are transparent, objective, impartial and fair. The issue is one the OAA takes seriously, and has in fact recently put in place measures to enhance current practices related specifically to individuals who are considered internationally trained in the field of architecture as outlined below.

In Ontario, a licence as an architect is granted based on a clearly defined set of education, examination and experience requirements set out in section 27 under the Architects Act. These requirements are delineated to the public via the OAA's website. These requirements are in addition to the Occupation Career Map for Foreign-Trained Architects, soon to be the e-Career Map, and are available to the public from the OAA website. This collaborated effort with the Ministry of Training, Colleges and Universities resulted in a 12-page document which clearly defines the registration process through step-by-step descriptions. Provision is also made within the licensing requirements to allow internationally-trained architects to obtain credit for experience obtained in jurisdictions outside of Ontario.

In June 2006, the OAA launched a group mentoring, online mentoring and employer outreach pilot program

for internationally trained professionals. The initiative is in partnership with JVS Toronto and funded by the government of Ontario through the Ministry of Citizenship and Immigration.

An alternative pathway to professional licensure is also available through the Ontario Association for Applied Architectural Sciences, the OAAAS. OAAAS delivers a new building design professionals program that recognizes three categories of building designers: associate, technologist, and ultimately a technologist who is eligible for a licence with terms, conditions and limitations granted by the OAA to practise a limited scope of architecture.

The OAAAS is an association governed by a board of directors comprised of representatives from the Ontario Association of Certified Engineering Technicians and Technologists and the Ontario Association of Architects.

Access centre for internationally trained individuals: While we applaud the creation of the access centre for internationally trained individuals as noted in the proposed bill, we trust that it will be linked to the information and programs that we already have available for internationally trained professionals, as well as co-ordinated at the national level.

Audits and annual reports, fairness commissioner: The OAA has concern that the role and powers of the Fairness Commissioner are intended to be very broad and not clearly defined; in fact, they may conflict with the role and responsibility of the OAA as the regulator of the profession of architecture in the province of Ontario.

Part VI of the proposed legislation speaks to annual reports on registration practices from all professional regulators to be filed with the Fairness Commissioner. In addition, each organization is to participate in a formal audit of registration practices at least every three years. The OAA questions the need for the intended audit process and annual reporting and stress that it is imperative that the differences between the professions be considered when creating the proposed classes of regulated professions.

Virtually all costs related to compliance with the proposed act are to be borne by the regulator. The cost of the audit and the training of individuals to ensure compliance will be of significant financial ramifications to the OAA, which has a very small membership base.

Another concern is raised with the selection of auditors whose background, knowledge and experience with the architectural profession may be lacking in understanding of the registration practices. This will need to be clearly defined.

Proposed amendments for consideration: We would like to propose the following specific modifications to Bill 124, which are consistent with those made by ORAC in the recent letter to Minister Colle:

(1) The word "practices" is sometimes replaced by the term "requirements"—see clause 18(2)(a). We would submit that these words have very different meanings and request that a consistent use of the term "practices" should be used in the bill.

(2) That the Fairness Commissioner's extraordinary powers to call for audits of a regulator's registration practices be removed and replaced with the power to advise the minister that a best practices assessment of the registration practices should be conducted for the purposes of continuous improvement.

(3) That a clause precluding public reporting by the ministry of regulatory practices which may jeopardize fair practices of a regulator for applicants—individual or all—be included.

(4) That the penalties proposed under subsection 29(3) be aligned with legislative fees as set out in current regulatory mechanisms, for example, the RHPA. The fees, as proposed, are excessive. These additional costs and penalties could result in significant financial burdens which could be difficult or impossible for a regulator to manage. For example, how could publicly appointed councillors be responsible for registration decisions and not be appropriately protected in this system?

We trust that the standing committee will take these comments and concerns into consideration as part of their detailed review of Bill 124.

The Chair: Thank you. You've left a little bit of time for questions, so I'll turn it over to Mr. Tabuns.

Mr. Tabuns: Could you tell us what percentage of internationally educated architects who come here are currently accepted as architects when they apply?

Mr. Hillel Roebuck: All the internationally trained professionals go through the same process as the domestic. There have not been any who have not complied with the licensing requirements.

Mr. Tabuns: Good to know. Thank you.

The Chair: Thank you very much for joining us this morning. We appreciate your presentation and thank you for providing it in written format as well.

JEFFREY REITZ

The Chair: Next we have Jeffrey Reitz, a professor. Welcome. Please join us at the table. You have 10 minutes for your presentation, as you've seen. If you leave some time within that time frame, members will be able to ask questions of you. So make yourself comfortable, state your name for the record and begin your presentation.

Dr. Jeffrey Reitz: My name is Jeffrey Reitz and I'm from the University of Toronto. I have circulated a copy of my presentation. Thank you for the opportunity to meet with this committee.

I believe that Bill 124, the Fair Access to Regulated Professions Act, would make an enormously positive contribution to resolving one of the most significant problems confronting Canadian immigration today; namely, the underutilization of immigrants' skills.

The bill addresses one of the most frequently mentioned aspects of the problem—fair access to professions—and does so in a way which is innovative and effective. I believe it will also prove to be a strategic move in the broader effort to deal with the problem

across the labour force. It will show leadership in demonstrating that positive action is possible, and I believe the bill may be a catalyst to generating awareness across all groups of employers of the potential that exists within our large immigrant population.

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I want to say a few more words about the problem in general, about its significance in the province of Ontario and about the strategic nature of this initiative, more than about the details of the bill itself.

The issue of the underutilization of immigrants' skills, although by no means new, is increasingly pressing. It featured in discussions of immigration issues 25 years ago and, more recently, it has been the subject of several research and policy initiatives in Canada and in other immigration countries. The economic impact in Canada has been estimated at \$2 billion annually. This is only the tip of the iceberg, however.

First, the difficulties that immigrants have in translating their foreign qualifications into earnings, whatever their field of employment, is much larger. It's about \$15 billion annually.

Secondly, the employment difficulties of immigrants are intensifying over time. Reports from Statistics Canada show that the overall earnings of newly arrived immigrants in the late 1990s were about 20% below that of their counterparts arriving in the 1970s, and this is despite vastly upgraded levels of skills.

Third, there's a broader social impact because of the fact that most of these immigrants are of non-European origins, making them visible minorities within the Canadian population. As a result, poverty rates among visible minorities are increasing.

Finally, because immigrants are concentrated in Ontario and particularly in Toronto, these impacts are magnified here. Because of the significance of immigration to the economic, social, cultural and political future of the province, it's incumbent on government to act to address these employment issues.

Of course, this problem exists in other jurisdictions outside Canada. However, because of its significance in Canada and Ontario, we in particular must be leaders in addressing the problem of immigrant skill underutilization.

We know that the problem exists. Just one indication among many is a study that the provincial government itself did, *The Facts Are In*, a survey conducted in 1998 and 1999 by the provincial government which showed the experiences, dissatisfactions and frustrations among skilled immigrants in gaining access to employment at their level of skill.

However, although new programs are introduced, the reality is that, in the past, we have not been particularly innovative in addressing this problem. For example, in mounting our current credential assessment services here in Ontario as a result of an open competition, we turned to an American firm to provide the skill and expertise, and yet the evidence does not suggest that the United States is particularly effective in addressing the employ-

ment problems of skilled immigrants. This is so for the simple reason that the issue is of much less significance south of the border. Here in Ontario it is critical, and so it is important that we begin to take the leadership in finding more effective ways to ensure that our immigrants find employment suitable to their training and that they do so quickly.

The problem of immigrant skill underutilization is complex. A complete answer will involve many activities across diverse institutional sectors, and it will require government leadership, coordination and resources.

Many of the programs are beginning to be put in place, including credential assessment services, bridge-training programs to top up immigrant skills or to fill gaps across a range of occupations, workplace internships and mentoring programs and upgraded human resource management training, to name a few. This is an area in which more attention and information will be needed in the future.

However, the employment of immigrant professionals is an area of particular concern for two reasons: First is that although the professional qualifications of immigrants are higher than in the past relative to the native-born population, their success in gaining access to professional employment is declining. So the problem in this sector is becoming worse. Second, the regulation of professional employment is highly organized, so effective action to intervene and address the problem of gate-keeping is readily within our grasp.

It's important to realize that the professionally trained immigrants and workers seeking employment in regulated occupations are only a small part of the pool of skilled immigrants who experience barriers to the use of their skills in the labour market. In fact, there's a very large group of immigrants with post-secondary degrees seeking employment in occupations which are highly skilled but not formally regulated, for example, technicians or middle-level managers, including human resource managers themselves. Some of the immigrants applying for those jobs are persons who have had difficulty in the regulated occupations and seek alternatives. Others are persons with previous experience outside Canada in a non-regulated sector and want to continue that specific type of work in Canada. Still others are persons with general education who are as qualified as many native-born Canadians who are applying.

What happens in many of these cases is the same as happens in the regulated fields; namely, the immigrant applicants are set aside in favour of others whose skills are more familiar. It's interesting that in the case of immigrants who are applying for skilled jobs at one level because of barriers at higher levels, many encounter the objection that they are over qualified. This is becoming something which some regard as a standard human resource practice, but which is a decision that the Canadian Human Rights Commission handed down—it says “yesterday”; that's not correct—recognized as discriminatory.

One might think that the barriers outside the regulated fields would be lower, on the argument that the standards

there are less rigorous. The evidence from labour market surveys and the census suggests that the reverse may be the case. More detailed review of qualifications in the regulated fields may actually help immigrants. In less regulated but still highly skilled lines of work, the lack of regulation may allow for a more informal process, which makes it more difficult for immigrants to bring their specific qualifications forward. Earnings losses to immigrants in these lower level jobs are greater in percentage terms than what exists in the regulated occupations. In fact, this is a more numerous group within the immigrant community. So they should also be a priority, but the existing regulations do very little to assist them beyond the provision of language training.

What is significant about the Fair Access to Regulated Professions Act is that it would make a real difference in a highly visible and accessible sector of our workforce. It would require Ontario's regulated professions to ensure that their licensing process is fair, open and transparent and that credentials are assessed more quickly. Doing this would not only make a large contribution to resolving an important public policy problem, it would provide a highly visible demonstration of the critical importance of the immigrant workforce in general to the development of the knowledge economy of the future. It's not that professional associations have been particularly resistant to change; it is that we look to these associations for leadership, and where that leadership is not forthcoming, it is incumbent on government to step in and show the way. This is what Bill 124 does, and I support it strongly.

The Chair: Thank you very much. We have time for a quick question.

Mr. Klees: Thank you. I appreciate your submission. You make a very important point on the last page where you talk about the fact that so many employers will use the excuse, "You're over qualified." So we have people who have the qualifications, perhaps even credentials, but they're not getting the jobs. My question to you is, beyond this bill, which may well do—and we hope it will—many of the things that government has as its objective, if there's one thing that government can do or should do to ensure that we address this issue of people who are qualified getting the door slammed in their face, what can government do to address that very practical issue?

Dr. Reitz: Unfortunately, it is a very complex problem. I don't think there is one thing. I guess if I had to say one thing, it's that the organization that I believe has mounted the most effective plan and program to address this issue is the Toronto Region Immigrant Employment Council. So if there is one thing I would suggest the government do, it's to listen to that organization and implement as many of its recommendations as possible.

As I say, there is no silver bullet here, because the labour force is complex. Every occupation has its own particular set of qualifications, requirements and so on and there's no way that we can address all of that. I suppose the most comprehensive approach that has been before the Legislature is the Employment Equity Act,

which was passed in this province by a previous government and then later rescinded. That act addressed employment discrimination, and that's what we're talking about: employment discrimination.

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It's interesting that at the federal jurisdiction where there is an employment equity law, the employers who have been subjected to it have emerged as among the strongest supporters of diversity hiring and the utilization of immigrants in the workforce, namely the banks. The banks have been subject to this law, which Ontario has rejected as a quota bill and a horrendous imposition on the private sector. The people who have been subject to that law in the federal jurisdiction have emerged as the greatest defenders of minority hiring and immigrant hiring and are not at all complaining about the imposition of quotas. I would say to the contrary.

There is that particular initiative. I am not putting it forward here, because I know that the politics of it have become quite negative. That in fact is one of the reasons I've turned my own personal attention in this area to the question of qualification recognition and addressing that. I think TRIEC, the Toronto Region Immigrant Employment Council, has developed a very effective overall plan for dealing with the various aspects of it, which include the very same issues I've mentioned.

The Chair: Thank you very much. I'm going to have to ask you to end your presentation. Sorry.

Dr. Reitz: Okay. Sorry about that.

The Chair: Thanks very much. We do really appreciate your comments. Thanks for coming to see us this morning.

COMMUNITY ALLIANCE FOR SOCIAL JUSTICE

The Chair: Our next presentation is from the Community Alliance for Social Justice. Please take your seats at the end of the table. Again, introduce yourselves as you begin your presentation. You'll have a 10-minute time frame, and if you leave time, we'll be able to ask you some questions. So, welcome, and please begin.

Mr. Edwin Mercurio: Thank you very much for giving us the chance to speak to this legislative committee. My name is Edwin Mercurio. I am the chairperson of the Community Alliance for Social Justice. On my left is our past chair, Pura Velasco, and on my right is our director for the Kababayan Community Centre, Ms. Flor Dandal.

Ms. Flor Dandal: And the vice-chair of the Community Alliance for Social Justice.

Mr. Mercurio: The Community Alliance for Social Justice feels that the recognition of internationally educated professionals is a vitally important issue to the Community Alliance for Social Justice, a coalition of more than 27 Filipino community and other social organizations in Toronto.

The Philippines represents one of Canada's most important sources for immigration, ranking third in the

1990s, after China and India. In the 2001 census, just over 223,000 immigrants migrated to Canada and identified themselves as Filipinos, and around 10,000 new arrivals have been added to this number every year since then. Between 2001 and 2005, 67,000 Filipinos arrived in Canada, making the total 290,000 Filipinos.

As a group, Filipinos are highly educated. In 2001, almost 57% of Filipino immigrants to Toronto had some university-level education; this compared with 33% for all immigrant groups and just under 35% for residents. Moreover, most Filipinos arrive with a strong command of English and a familiarity with North American institutions.

Despite these high levels of human capital, the average wage levels for Filipino men and women are substantially below a variety of comparison groups. Statistical analyses have shown that Filipinos have among the highest levels of occupational segmentation of any immigrant groups, says a study made by Hiebert, 1999, and Kelly, 2005.

The non-recognition of their foreign-earned credentials, institutionalized de-skilling, de-professionalization and institutional obstacles to practising their licensed professions in Canada have caused economic marginalization to Filipino Canadians, especially to new arrivals. Why is it that despite having high levels of education among Filipino immigrants, a vast majority of them end up in low-paying jobs resulting in an average income lower than that of most immigrants?

A recent survey conducted by the Community Alliance for Social Justice—or CASJ for short—in collaboration with Dr. Philip Kelly of York University, explains the de-professionalization, de-skilling and occupational segmentation experienced by many Filipino immigrants in Canada, which to a large extent explains this high-education/low-income disparity. Approximately 1,100 survey questionnaires were distributed. Over 420 Philippine-trained immigrants in Toronto responded to the survey.

Government 2001 statistics indicate that 57% of Filipino immigrants in Toronto had some university-level education compared with 35% for all Canadians, the study notes, yet Filipinos are concentrated in a few sectors and in lower occupational niches where, on average, Filipinos earn less than what visible minority immigrants earn as a whole. The study, titled *The De-professionalized Filipino: Explaining Subordinate Labour Market Roles in Toronto*, co-authored by Mila Astorga-Garcia and Dr. Philip Kelly, explores the causes of such de-professionalization in the Filipino community, using the survey and focus group methods.

The main cause identified in the survey and focus groups was systemic non-recognition of Philippine-earned education and experience. As a consequence of this systemic barrier, Filipinos are forced to take on survival jobs to support themselves and their families and to meet financial obligations, such as debts incurred due to the high cost of immigration. Survival jobs provide no surplus to finance tuition or professional upgrading.

In the survey, 53% of the respondents cited non-recognition of credentials and professional licences as a factor preventing them from practising professions. Seventy-eight per cent of the survey respondents were college graduates; 80% of live-in caregiver program participants in the survey had college degrees; 35% of survey respondents said they would consider leaving Ontario in order to practise their professions elsewhere.

Professional regulatory bodies that make accreditation and licensing decisions were criticized by the focus group participants for their basic ignorance of Filipino institutions and qualifications; arbitrariness in application of standards; high cost of enrolment in upgrading courses; and failure to recognize even third-country, including US, experience. Many Filipino professionals thus end up in jobs far below their educational qualifications and skills, training and experience. Half of the survey respondents said they were overqualified in their current jobs. This situation applies to both the old-timers as well as newcomers, thus shattering the popularly bandied-about myth that only newcomers find difficulty accessing trades and professions. Fifty-three per cent of post-1990 arrivals said they were overqualified, while 41% of pre-1990 arrivals said they were overqualified in their present jobs.

In the focus group, an outstanding criticism was directed against Canada's immigration policy and practice of bringing in the best and the brightest immigrants from the Philippines and other countries through the strict point system. The majority of these immigrants, however, are not absorbed in jobs commensurate with their education and training, with the end result of immigrants ending up as a source of high-quality cheap labour in Canada. Focus groups were held with engineers, accountants, nurses and with a group of mixed professionals, both regulated and unregulated.

CASJ petitions the Legislature of Ontario to amend the bill in these areas:

(1) Provincial regulatory boards' policies and practices should be reviewed and changed to allow for a highly informed, professional, fair and efficient accreditation process.

(2) Governments of all three levels should provide effective social supports for immigrants to allow them to settle and find appropriate jobs commensurate with their foreign education, training and experience. The federal live-in caregiver program should be reformed to allow applicants to enter Canada as skilled immigrants—thus allowing them access to housing and social service supports, legal services and labour protection—to train toward eventually practising their professions and trades and to bring their families with them, thus eliminating the serious social costs of reunification after long years of family separation. The provincial government should thus work with the federal government to change this program to allow caregivers to come as landed immigrants so they are not hampered by many restrictions that result in their denial of access to social supports, legal supports and training opportunities.

(3) Provide legal, professional and academic assistance to new Canadians seeking recognition of credentials. This includes provision of trained advocates without charge to applicants to present the cases of applicants before the regulatory appeal tribunal.

(4) Fully establish a fair registration code in the legislation. The strict point system established by the Canadian government to bring the brightest and the best from other countries to Canada must be considered in allowing foreign-trained professionals to practise their professions commensurate with their training and experience after passing fair and acceptable accreditation standards.

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(5) The province should provide government-subsidized loans to foreign-trained professionals so that they can utilize their skills, practise their professions, provide the much-needed services for Ontarians and participate in nation-building.

(6) Grant education points to foreign-trained nurses and other professionals so that they can come in as immigrants and not through the live-in caregiver program, or LCP.

The last but not the least: (7) Establish a department within the access centre established by the act which will fairly evaluate the equivalence of standards between regulatory bodies and educational institutions in different countries and in Ontario. Regulatory bodies will be provided with these data to assist them in determining equivalence of credentials. The Filipino community should be represented in access centres and in regulatory boards. Thank you very much.

The Chair: Thank you for your presentation. Unfortunately, or fortunately, you've taken us right to the wire. We don't have time for questions, but we do appreciate your presentation very much. Thank you for joining us this morning.

CERTIFIED MANAGEMENT ACCOUNTANTS OF ONTARIO

The Chair: Our next presentation is from the Certified Management Accountants of Ontario, if you could join us at the table. You have 10 minutes for your presentation. Please begin by introducing yourself for the record. If you leave any time in your presentation, we'll be able to ask you some questions. Welcome, and please begin.

Mr. David Hipgrave: Good morning. My name is David Hipgrave and I am the president and chief executive officer of the Certified Management Accountants of Ontario. With me is Catherine Harvey, vice-president at the society.

CMA Ontario is pleased to provide this presentation and accompanying submission to assist the committee in its review of Bill 124.

Under the authority of the Society of Management Accountants of Ontario Act, 1941, CMA Ontario is the professional body responsible for the accreditation, regulation and continuing professional development of

CMAs in Ontario. With 16,000 certified members and 4,000 student members, CMA Ontario is an integral part of a profession that is 47,000 members strong across Canada and around the world. CMA Ontario maintains rigorous standards of accreditation and professionalism in management accounting to protect the public interest.

Over the past five years, the number of graduates from the CMA program in Ontario has grown by 9% per year on average, which exceeds the growth rates of the other professional accounting bodies in Ontario. Of note, one in six of our 2005-06 graduates were internationally educated, holding only an international degree. CMA Ontario has proactively introduced important new measures to accelerate access for the internationally educated to the CMA accreditation process while upholding high standards and fair registration practices. Several examples of these measures include our bridging program, transcript evaluations and career map.

First, we have established a bridging program that enables candidates to fast-track their eligibility for our entrance examination. We no longer require candidates to be employed as an entry requirement to this program, and this enables new Canadians who have not yet secured employment to begin our program sooner and also provides them with access to CMA-bound employment opportunities.

Secondly, CMA Ontario evaluates transcripts at no charge from potential candidates anywhere in the world. This enables Ontario-bound internationally educated individuals to learn if they qualify for our bridging program, if they require additional studies to qualify for it or if they can benefit from the mutual recognition agreements we have struck with other accounting bodies.

Finally, together with the government of Ontario, CMA Ontario provides a career map information service that expands the information available to prospective immigrants about the management accounting profession and our accreditation requirements.

Moving forward, additional initiatives are being pursued by CMA Ontario, including participation in the January 2007 Premier of Ontario business mission to India. India is the largest source of internationally educated individuals seeking advanced standing in the CMA program in Ontario. Through the mission, we will explore bridging programs with leading Indian institutes and universities to support prospective newcomers in advancing their studies prior to arrival in Ontario.

When Bill 124 was introduced in June 2006, CMA Ontario welcomed the legislation as an important initiative to ensure fair and timely access to the profession for all candidates, including the internationally trained.

We support this significant step by the government of Ontario and recognize that there are many other programs and services that assist the internationally trained in the province. We support the objectives of Bill 124 and applaud Minister Colle and the McGuinty government for their leadership on this issue.

CMA Ontario believes that the many facets of the proposed new regime will ensure that the government's goals are achieved. For example, the Fairness Commis-

sioner, together with the reporting, certification and audit requirements, will play a vital role in establishing consistent practice standards across all regulated professions, for the benefit of the internationally trained and others seeking registration. The access centre will be an important focal point for individuals and the many organizations that support them in settling in Ontario and achieving full employment.

These government initiatives, together with the commitment of all regulators, we believe can place Ontario at the forefront of fair access for the internationally trained and of high regulatory standards.

In keeping with our belief that this legislation is a step in the right direction, CMA Ontario would like to provide several suggestions and recommendations and some comments on the legislation which we believe are essential to our collective success. These are set out in our submission for the committee's consideration, but this morning I would like to highlight a few.

Item 1: Throughout the legislation, including in its purpose, there are references to registration practices that are transparent, objective, impartial and fair. We recommend that clear definitions of these terms be developed, specifically as they pertain to the way in which registration practices are to be conducted. These definitions must be sufficient to guide the translation of these principles into clear and consistent standards of practice across all regulated professions that are, in turn, capable of being audited on a consistent basis by multiple parties. For example, the definition of transparency could include the requirement that assessment and registration decisions be communicated to candidates with clear and sufficient reasons.

We also recommend that definitions be established for "registration practices" and "requirements for registration," with the former pertaining to procedural criteria and the latter to substantive criteria relating to qualification for registration.

Also, we recommend that the regulated professions be consulted in developing these definitions because their expertise can really help to ensure that the definitions will support fulfillment of the purpose of the act.

Item 2: Subsection 12(3) states that a function of the Fairness Commissioner is to "consult with regulated professions on the cost of audits." We recommend that the regulated professions also be consulted on the standards, scope and timelines for the audits in addition to the costs.

Item 3: Section 14 stipulates that the Fairness Commissioner shall prepare and submit an annual report on the effectiveness of the act and its regulations. We recommend that the primary measurement of the effectiveness of the act and its regulations be based on compliance therewith because this is the most direct indicator of whether the legislation's purpose is in fact being achieved. Supporting performance indicators may be drawn from the reports submitted by regulated professions and the auditor's reports.

Item 4: Subsection 25(2) specifies that no compliance order shall require a regulated profession to make, amend

or revoke any regulation that it has the authority to make under its governing act. Although we interpret this exception to apply to the requirements for registration that are established by a regulated profession, we recommend that the exception for requirements for registration be explicitly stated in the legislation.

Item 5: Subsection 28(1) specifies that a regulated profession that is the subject of a compliance order may appeal the order to the Divisional Court with the leave of the court. We believe that a regulated profession would seek an appeal only on critical matters and, therefore, believe that it is essential that any such appeal be heard by the court.

Subsection 28(2) specifies that an appeal may be made on questions of law only. Again, given the criticality of the matters on which an appeal would be sought, we believe that appeals should also be permitted on questions of fact or mixed law and fact; otherwise, a process for appeal to an independent tribunal should be established for questions of fact or mixed law and fact. This will ensure due process in the disposition of compliance orders that the regulated profession believes would be detrimental to the conduct of the profession and the public interest.

Our full recommendations and comments are provided in our written submission, which we have provided here today.

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In conclusion, CMA Ontario concurs with the overall premise of the proposed legislation that regulated professions have a duty to provide registration practices that are transparent, objective, impartial and fair.

The appointment of a fairness commissioner, together with the reporting, certification and audit requirements, can play a vital role in building confidence in the fairness of registration practices for all individuals, including the internationally trained, across all regulated professions. The creation of the access centre can serve as an important focal point for linkages with the regulated professions and the provincial and federal governments in this area and can also provide an important source of information and support for individuals seeking internships and mentorships.

Finally, we recognize that many stakeholders must take action if we are to help the internationally trained to achieve their full economic potential in Ontario. This legislation and we, as a regulator, can play an important role in assuring fair and timely access in the regulated professions in Ontario.

We encourage the government in its efforts and we would welcome further opportunities to work with the minister's office to create strong and sound legislation and regulations.

CMA Ontario supports this government initiative and the framework set out in Bill 124. We hope that our contribution to your deliberations will be valuable as you prepare advice for the Legislative Assembly on this legislation.

Thank you for hearing us today.

The Chair: Thank you very much for your presentation. It's much appreciated.

Mr. Delaney: Chair, on a brief point of privilege: I'd just like to acknowledge the CMAs as perhaps a shining example of the best of practices in Ontario and to commend them on getting the spirit of the resource available to them in foreign-trained professionals years ago. I often cite them as an example of the way it should be.

The Chair: Thank you, Mr. Delaney.

Thank you again for your presentation.

PROFESSIONAL ENGINEERS ONTARIO

The Chair: Next we have the Professional Engineers Ontario. Welcome. Please join us at the table. You have 10 minutes for your presentation. Please begin by introducing yourselves for the record. I'll let you know when you have about a minute left. Otherwise, if you finish earlier than that, the remainder of the 10 minutes will be used by members to ask questions. So please begin.

Mr. Kim Allen: Thank you very much. My name is Kim Allen. I'm the CEO and registrar of Professional Engineers Ontario. On my right is Michael Price, our deputy registrar of licensing and registration; on my left is Mark Baruzzi, our general counsel.

Thank you very much for the opportunity to make this presentation.

Professional Engineers Ontario regulates the practice of professional engineering and governs its licence and certificate holders so that the public interest may be served and protected. PEO's—I'll use "PEO" through the presentation—registration practices espouse the fair registration principles within Bill 124. In addition, we've very pleased that the government did not establish the independent appeals tribunal as recommended in the Thomson report.

In our 84-year history, more than half of our elected presidents had been trained outside of Canada. A similar number of professional engineers who operate as volunteers on our committees, including those who assess academic and experience qualifications, have been trained outside of Canada. Today, one third of the approximately 68,000 licensed professional engineers have been internationally trained, a testament to PEO's registration practices.

In fact, PEO licensed more internationally trained graduates in 2005—and we'll certainly license more in 2006—than we did graduates of Canadian programs. Our continuous work was recognized in January 2005 by the Ministry of Training, Colleges and Universities, where PEO was ranked first among the professional regulatory bodies, having evaluated the most measures responding to the barriers facing internationally educated individuals seeking licensure.

PEO is proud that qualified international graduates play a vital and growing role in our profession, and we support the government's plan to ensure fair access to regulated professions.

PEO supports the view that through co-operation with government and stakeholders we can continually assure the public of Ontario that PEO's registration practices are transparent, objective, impartial and fair. As an active member of the minister's roundtable, we continue to work with the government to achieve these views. Continued consultations will be required to ensure that the proposed regulations proclaimed under the act reflect the legislation's intent and the spirit of it.

With this in mind, I'm going to walk you through our licensing practices. If the committee can actually have a quick look at the nice little coloured chart in here, it will help you walk through the licensing practices that are in our presentation.

Our practices begin with an application. The second step in it, in box number 2, is an assessment of the application versus licensing requirements, and that occurs by the registrar. Within our legislation, the registrar can refer or the applicant has the right to have it referred to two different statutory committees dealing with the major components of experience and academics. That makes up our first very comprehensive assessment.

The next step in the process is, once all those assessments have been completed, the determination whether or not the applicant has met all of the licensing requirements. If they have, we simply issue the licence; if they haven't, we are, as the registrar, required to issue what is called a notice of proposal to refuse to issue the licence. This affords the applicant the ability to have a hearing under our legislation. If the applicant chooses not to have a hearing by notice—and they have 30 days to decide whether they want the hearing or not—then we complete the process by not carrying out the order and not issuing the licence. Should the applicant choose to go to a registration hearing, it is a completely independent panel. Another statutory tribunal that's set up under our act and operates under the Statutory Powers Procedure Act conducts a second very comprehensive assessment. That registration tribunal has the ability to either issue the licence or not issue the licence, and a few other things. At the end of that registration, the decision out of the registration tribunal, either party has the ability to appeal it to Divisional Court.

With this in mind, PEO has three proposals that we're talking about to try to enhance the Fair Access to Regulated Professions Act.

The first proposal—if you look right in the middle of box 5—is: In the spirit of achieving the legislative intent of subsection 8(1), where regulators are required to provide an independent review in it, PEO proposes that the definition of a registration decision be amended to include the wording in our item C below, which would simply recognize that the issuing of a notice of proposal to refuse to issue a licence is a registration decision. Then our registration tribunal carries out the intent of that. The amendment will clarify that the registration committee does carry out the intent of that internal review required by the act in subsection 8(1).

The second item we wanted to put forward—and PEO has worked for a long time on ongoing improvements to

our registration process as they're put in place—is that regulatory bodies can spend considerable time and effort revising registration practices to try to make them fairer and more transparent. We urge that the act be amended to include that, upon request by a regulatory body, the Fairness Commissioner provide advance rulings on proposed practices by the regulators.

Our third item is that, in the spirit of the legislation, in addition to the powers that already exist under subsection 26(4), where the Fairness Commissioner may, on his own, review the order, vary the order or rescind the order, PEO suggests that the act also provide for an internal review or appeal mechanism from the Fairness Commissioner's compliance orders and that there be a reasonable time period specified to do that so we can move on very quickly.

I tried to go through the presentation very quickly so I can afford the committee some opportunity to ask some questions.

The Chair: That's great; thank you. We did get out of order, so I believe it's the government, Mr. Ramal. If there's time, then we'll move to—please, Mr. Ramal. Thank you.

Mr. Ramal: Thank you very much for your presentation. I know you're working very hard as part of the roundtable committee in order to advise the minister on this very important file, to get this bill right, to help many people in this province to integrate and find a job and be accredited. But we heard from many different speakers who commented in terms of removing the audit provision from the bill—different titles cost a lot of money and create obstacles. As you know, it started as a very important element of the bill in order to make sure that fairness and accountability are in place. What's your comment on this?

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Mr. Allen: Our position on it is that, again, if it improves the confidence of the people of Ontario that our practices are audited and demonstrated to be fair, transparent and all that, it's good for everybody concerned. So it's a good process to have those ones in where you have an independent review of it, and if there is something that isn't up to speed on it, then we'd like to know that and try to correct those types of situations. We think the audit is a useful and very meaningful part of the process in the bill.

Mr. Ramal: So you think the bill is on the right track in order to address the issues.

We've been listening to many different presenters since last week. Many people came before this committee and presented and they talked about how important this bill is in order to break down those barriers and allow people to enter the market by giving them the chance to be accredited in a fair way and giving them the chance to be a part of this community. So what's your comment on this?

Mr. Allen: We think the bill is certainly headed in the right direction in providing the right principles and the right drivers to ensure that we shrink the time to the mini-

mum extent so we can have people become successful in Ontario.

Mr. Ramal: Thank you.

The Chair: Mr. Klees?

Mr. Klees: I have fairly regular meetings with your political action people. In a meeting just a couple of weeks ago, I asked them this question in terms of the labour balance, and I was advised that, in their opinion, there is actually an oversupply of engineers in this province and that is one of the problems why perhaps foreign-trained engineers are having a difficult time getting a job here.

However, we did some research—and specifically, it was that response that prompted my request for this research—to inquire of the various regulatory bodies as to their opinion in terms of whether there is an excess or a shortage of supply. In the engineers' response in our report, it indicates that there's no conclusion.

I'd like to know from you: Do you believe that there is an oversupply of engineers for the labour market as it is in Ontario today, or not?

Mr. Allen: Again, as the regulator, our job is to license whoever comes to our door and to ensure that those practices are fair, open and transparent for all that are put in. Our experience is that a number of applicants have considerable difficulty gaining the right type of experience, which would suggest that their ability to actually gain those types of employment that are needed to fulfill our experience requirement is difficult.

Mr. Klees: So the conclusion would be that there's an oversupply?

Mr. Allen: With engineering, we've got 41-odd disciplines that come in and it's very discipline-by-discipline-specific, so, depending on where the applicant comes in, whether or not there are specific jobs in those areas is difficult to say.

With our body, we get about 4,000 applications a year, and the numbers are something like 15,000 people coming to Ontario who claim to have engineering qualifications, but we don't see them applying to us. So how many of those are included in that group that are having difficulty is very difficult to tell. There's another 5,000 or 5,500 graduates from Ontario universities per year who are entering into that profession. So there is a total of about 20,000 people, but we only see about a quarter of those people actually apply for licensures. Not all engineering jobs require to be licensed by the profession.

The Chair: Thank you very much. We've run out of time. I appreciate your presentation. Thank you for joining us this morning.

CARE CENTRE FOR INTERNATIONALLY EDUCATED NURSES

The Chair: Next on our list of presenters we have CARE Centre for Internationally Educated Nurses. I would ask representatives from that organization to join us at the table. You have 10 minutes for your presentation. If you leave time within that, you will have

some questions asked by members of committee. Please state your name for the record. I will let you know when you have one minute left in your presentation if we get that far.

Ms. Amy Go: Thank you very much. My name is Amy Go and I'm the chair of the board of directors of CARE centre. With me is Aruna Papp, our executive director.

First of all, I want to thank the Ontario government for funding CARE. We just received confirmation of another three years of funding, over \$3 million to expand our services outside of Toronto on a regional basis. So that's great. Thank you very much.

Since our inception, CARE has helped over 500 registered nurses, those internationally educated. They are very happily employed in our health care system, providing services to the communities.

CARE applauds the government for its leadership in introducing this bill, because we believe this is a very strong first step to opening the doors to internationally educated professionals in Ontario. But we do believe there are certain provisions that can be strengthened and there are complementary measures that should be taken so that internationally educated professionals will truly have a chance in Ontario.

I will talk about the specifics, and Aruna will talk about the complementary strategies.

First of all, appeal: I'm sure you've heard that it is important to have an appeal process so that another independent body will assist the individuals if they have questions and concerns about the process. Through CARE, we have been able to intervene and actually prevent them from going to appeal, but not all individuals have those kinds of services. It's important that we have that appeal process and that we provide assistance to individuals to go through that appeal.

The second point I want to raise is about the assessment of qualifications. It is probably the most important component of the registration process. The bill has laid out some very critical principles, and we totally agree with them, but we just want to highlight a couple more. First of all, consistency: In our experience we have found that there are individual assessors with a lot of power, a lot of discretion in their hands. They have the power to deem or to deny an application, so consistency is critical in that process. The other principle is, of course, anti-discrimination and anti-racism. That should be an overarching principle of this legislation, and I believe this legislation is based on that principle.

The other aspect is training. The individual, as I mentioned, has so much power in the assessment process, in the regulatory process, so it's critical that their personal biases—and that they also have the cultural competency to provide a fair and objective assessment. We believe a regulatory body should provide training to all their staff on anti-racism, on anti-discrimination, and to ensure that they all have the cultural competency to provide assistance to internationally educated professionals.

The other thing is about the access centre. You probably have heard that again. CARE is an access centre.

We've been a very successful access centre, so we don't believe that we need to duplicate the efforts. We can actually expand on these services. We should provide more of these types of services to other internationally educated professionals, and CARE can definitely assist in that process. We believe that the access centre as envisioned in this legislation should be like a clearing house. It should be a place where people can come for information and be referred to places like CARE and other programs, and also to gather the best practices amongst the regulatory bodies, amongst the community programs, so that we can continue to enhance the process.

Those are the specifics that we would like to address for this legislation.

Ms. Aruna Papp: The complementary strategies that we would like to present are—as you know, immigrants come with a lot of higher learning experience and usually they are not assessed in a proper way. It is a very critical part of their qualifications. While it is a very complex process—we understand that—we think that it requires a dedicated resource to ensure that the information is reliable and the assessment is fair and objective. Rather than relying on individual professional regulatory bodies, it should be conducted by an independent body so that it can be more clear, objective and more centralized. We recommend that the government of Ontario should fund a centralized prior learning assessment centre that is independent from the regulatory bodies to ensure the fairness and objectivity of the process.

Others have also spoken on the issue of employment equity and we would like to re-emphasize that getting licensing is just one of the steps, a difficult step, but many immigrants face a lot of discrimination within the system and most often the excuse they hear is, "You have no Canadian experience."

Without the protection of the legislation, such as employment equity, these qualified individuals may not be able to practise their trades and professions. We are recommending that the Ontario government should entrench employment equity through legislation.

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Ms. Go: That concludes our presentation.

The Chair: Thank you very much. You've left a little bit of time for questions from members of committee, so we'll begin with Mr. Tabuns.

Mr. Tabuns: Thank you very much for that presentation. How important do you see the establishment of independent tribunals for appeals to making sure this act is effective?

Ms. Go: I think it's really critical. In fact, we've had a conversation with the Health Professions Appeal and Review Board. What they are seeing, even with the current process, is that many of the individuals have no representation. They have no idea how to go about appealing. Just like the Human Rights Commission—if we turn it to court only, these individuals are going to be even more at a loss. There's no way they will be able to navigate the system. It's critical that we have an appeal

body that would assist them and also provide assistance in that appeal process.

Going through court is not for everybody. Many individuals, particularly internationally educated professionals, are so intimidated by that process that they would not even try to go through the court.

Ms. Papp: Most of them don't even know that there is an appeal system, that they do have that option.

The Chair: Thank you very much for your presentation. We appreciate you being here today.

INTER-CULTURAL NEIGHBOURHOOD SOCIAL SERVICES

The Chair: Our next presentation is from Inter-Cultural Neighbourhood Social Services, if the people from that organization can join us at the end of the table. You'll have 10 minutes for your presentation. If you leave any time at the end, members of committee will have a chance to ask you questions. I'll try to give you a warning when you're down to about a minute left in your presentation, so you can begin to wrap up. Please begin your presentation by introducing yourselves for the record. Thanks very much, and you can start at any time.

Ms. Andrea Seepersaud: Madam Chair, ladies and gentlemen, good morning. My name is Andrea Seepersaud. I am the executive director of Inter-Cultural Neighbourhood Social Services. This is an agency that provides services to more people than you can seat in the SkyDome at any time. We employ 70 full-time staff and we have four locations in Peel region.

With me this morning is Darcy MacCallum, on the far end, who is manager of the largest settlement-workers-in-schools program in Ontario. This is a program that is provided in the school system in Peel region, through about 85 schools, to newcomers and their parents. We also provide assistance to teachers.

I have, on my right, Amira Masud, who is the manager of the first in-house language training program that was implemented in Canada, and that addresses sector-specific terminology and English-language enhancement. It also has components of mentoring and internship.

On my left is Pat Hynes, an internship advocate in the ELT program and the only person we know of whose mandate is to advocate for the internship of internationally trained professionals in the business sector.

I say all of these things not so much to boast about our agency but to provide a context to which you can make reference when we speak to you this morning.

ICNSS—this is the acronym for our agency—has spent the greater part of 20 years, and I have spent all of my 12 years with this agency, conceptualizing and implementing programs and services aimed at individual capacity-building and resettlement and adaptation of newcomers to Canada. The issue of reciprocity remains on the top of our list of things that we obsess about, so to speak. Our staff who are here today will speak on the various components of the bill as they relate to the enhancement of what they do on a daily basis.

Ms. Amira Masud: The first item is that Bill 124 will ensure fair practices in the accreditation process. The enhanced language training program run by our agency recruits internationally trained professionals. This 10-week intensive program includes an internship or mentorship opportunity for each student. The intent is to bridge the gap between a survival job and meaningful employment commensurate with the skills and training these newcomers possess.

Considering that most of our students are internationally trained professionals whose field of expertise is governed by regulatory bodies, we have concluded that Bill 124 will greatly enhance the efforts of our staff and the clients we serve by ensuring that the pathway to meaningful employment in a regulated profession is clear and achievable.

We envision that this bill will help to retain current immigrants who are becoming disenchanted and disenfranchised by the current obscure and inconsistent practices of certain regulatory bodies. Our outcomes in delivering programs will be greatly enhanced by the existence of this unique, groundbreaking legislation. We will finally be able to cite legislation to protect our clients from the discrimination and unfair practices they currently endure.

Mr. Patrick Hynes: My name is Patrick Hynes, internship advocate with ICNSS.

The second feature, which I am going to be discussing, is that Bill 124 will establish the vital position of a Fairness Commissioner. This component is essential, as openness and fairness will be applied to better enable an internationally trained professional's credentials to be assessed more openly and fairly. Our myriad of programs and services will now be better complemented, as the transition from a settlement or survival job to employment in a professional capacity will be greatly enhanced.

When our staff or clients encounter roadblocks in the credentialing process, Bill 124 will provide us a clear channel through which issues can be resolved. We believe the Fairness Commissioner will give strength to the advocacy role our agency plays. Having a Fairness Commissioner to stand behind the process of assessing an internationally trained professional's credentials will help to ensure that the internship/mentorship experience we secure for our clients will be a positive step toward eventual full entry into the regulated profession for which they were trained.

Mr. Darcy MacCallum: Finally, we believe that the creation of an access centre is a vital piece of this legislation for three reasons. First of all, we believe that it will be a significant one-stop source of reliable information for our settlement counsellors and the clients we serve. It will enable our counsellors to serve our clients in a timely manner because we will not have to be chasing around through various different websites and sources of information for the details that our clients need, and it will increase the confidence that our clients have that Ontario is well organized and welcoming of their skills.

Second, we believe it will be a clearinghouse for the research that is spoken about in the legislation. Our

workers are on the front lines, observing trends and issues on a regular basis, and to have a source where their information and the information of others like them around the province can be aggregated is absolutely essential, we believe, to the further steps that are needed to enable internationally trained professionals to enter the workforce.

Finally, we believe that this access centre will be a conduit of information, not only for our agency to receive up-to-date information but for internationally trained professionals who go directly to the access centre. We would hope that the access centre would become a conduit back to agencies like our own that can assist the individuals as they work their way through the processes and find employment.

Ms. Seepersaud: So far, we've discussed the three parts that we believe are very important to our service that we provide in Peel region. We'd like to entertain any questions, if there are any from the floor.

The Chair: Thank you very much. Mr. Ramal.

Mr. Ramal: I want to thank you very much for coming this morning and detailing the importance of this bill. I would imagine you are here just to encourage all the members of the committee to support the bill because supporting it and letting it pass as soon as possible will quickly help many people waiting to get accredited in the province of Ontario. What do you think about this point? Do you want to add to it?

Ms. Seepersaud: Certainly, this is a landmark bill. It is something that has never happened in the history of Canada, I believe. I have personally waited a very long time to see this sort of thing happen, simply because my job has become extremely difficult, given a previous presentation where we actually looked at numbers of immigrants coming in with highly qualified portfolios and not finding employment.

We see 52,000 people on an annual basis. About 90% of those people have got some degree of education, 80% of them have got post-secondary education and about 70% of them are looking for jobs when they come to our centre. So yes, this legislation is amazing. We endorse it and we are looking to a very quick passing of this bill.

The Chair: Mr. Levac.

Mr. Levac: If there's time, Chair.

The Chair: Yes.

Mr. Levac: Thanks for your presentation. I just wanted to make one point and then ask a question. The point I'd like to make is, your organization is a non-profit agency funded by various agencies, including municipal, provincial and federal governments. The gain that you receive from the bill is based on the services you already provide, and you see this as a one-stop shop with a capacity to help you do your job even better than what you already do?

Ms. Seepersaud: That's right. Our agency's a drop-in centre, so yes.

Mr. Levac: Right, and the multiple number of languages you serve is representative of your community or representative of people from across the province who come for your services?

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Ms. Seepersaud: Our agency has a mandate for the region of Peel, and we can serve the greater Toronto area, but these are languages that are very specific to the people in Peel region.

Mr. Levac: It's the last question, Chair. Is there time?

The Chair: Sure.

Mr. Levac: A question was asked earlier about too many engineers, too many nurses or too many whatever. We've gotten ourselves into trouble previously by deciding that we don't need them anymore, we stop bringing them in, and then we find out we've got a shortage a few years down the road. What is your solution to the legitimate concern that maybe we're bringing in too many so-and-sos?

The example I would use to dovetail into that concern is that China is producing, if I've got my numbers right, literally thousands and thousands of engineers a year. If they become immigrants, we would have thousands and thousands of potential engineers coming into our country. How do you respond to the concern that's being raised by any one individual profession?

Ms. Seepersaud: Let's look at the engineers, for example. In our agency, we explore the possibility of transferring their skills into similar-type occupations or occupations that would require those skills and not necessarily require an engineering licence.

Pat, would you like to speak on this?

Mr. Hynes: As a placement advocate, one of the issues that I believe—there are regulated professions and then there are related professions. An engineer can work as an engineer, as an engineering technologist; there are a number of related professions. So to answer that question, Canada's economy is growing, Ontario's economy is growing, and there is room for new engineers.

There's room for other regulated professions that certain individuals believe there's an over-influx into at the present time, because you're not only looking at a profession, you're looking at a related profession, and their chance at meaningful employment is still greatly enhanced. I run into a number of private sector companies that advocate, "We may not need them as an engineer, but we may need them as an engineering technologist. We may need them in a related capacity." At the end of the day, they still will have a meaningful employment experience.

To answer your question, yes, there still is a need.

The Chair: Thank you very much. We really appreciate your presentation. Thanks for coming in to see us this morning.

CANADA CHAPTER OF COST AND MANAGEMENT ACCOUNTANTS OF BANGLADESH

The Chair: Next we have the Cost and Management Accountants of Bangladesh. Do we have a representative from that organization? Please join us. As you've noticed, we have a 10-minute opportunity for your pres-

entation. If you leave some time within that 10 minutes, members will be able to ask you questions. Please state your name for the record and begin your presentation. I'll let you know if you are getting to a point where there's only a minute or so left. Thank you, and welcome.

Mr. Akhtar Ahmad: Good morning, everybody. First of all, I've lost my voice for the last few days. Please bear with me.

Madam Chair and respected members of this standing committee, we would like to express our sincere gratitude for giving us the opportunity to talk to you today. This is a very short time. We cannot go into much detail, but I would like to highlight a few points about the bill.

First of all, let me introduce myself. My name is Akhtar Ahmad. I am the chairman of the Canada chapter of CMA Bangladesh and also the president of BPAC. I immigrated to Canada as a landed immigrant in 1990. I did my master's degree at the University of Dhaka, Bangladesh, and I did my CMA in Bangladesh in 1981; just to mention it to you, I was a scholar student.

Before immigrating to Canada, I had an excellent career, actually. I worked for Pfizer International in Bangladesh, the biggest pharmaceutical company in the world. I also worked for Hoechst Pharmaceutical. That's a German pharmaceutical company. I also worked for a subsidiary company of Tate and Lyle that is based in London, UK. I am now working in the health care sector, for about the last 12 years, as a financial director. In my present job, actually I took the initiative and we were able to increase our turnover by almost five times during my stay with this company.

I just want to highlight some difficulties I faced when I came to Canada. I came to Canada with great expectations. I thought that Canada was a great country. It was chosen the best country in the world many times. I thought I would be able to use my skills in this country. For immigration purposes, Immigration Canada recognized my professional qualifications and experience to select me as an independent immigrant under the skilled category. But when I came to Canada, I found that the reality was completely different. No accounting bodies were willing to give me any recognition, even at a minimum level.

I talked to, first of all, CMA Canada. They told me that they don't recognize CMA Bangladesh qualifications at all. They told me that since I had my master's degree they could give me some exemptions based on that degree. I was surprised. As I mentioned, I am chairman of the Canada chapter of CMA Bangladesh. As chairman, I had much correspondence with CMA Canada, but they refused to give any consideration to CMA Bangladesh qualifications. We find the regulatory bodies in Canada very unfair as well as inconsistent. I just want to give one example.

CMA Canada helped establish CMA Pakistan about 52 years back. At that time, Bangladesh was a part of Pakistan—East Pakistan—so everything was set up by CMA Canada. In 2002, CMA Canada gave an exemption to CMA Pakistan in all prerequisite courses, plus part 1.

of the entrance examination. We inherited the same program from Pakistan. We are a member of the South Asian Accounting Federation, an international body. Everything—the syllabus, course materials—is the same. As I mentioned, we inherited the same program from CMA Pakistan after partition. We actually wanted to get the same exemption as is given to CMA Pakistan, but CMA Canada refused. On the website of CMA Ontario, they recognize CMA Pakistan, those levels, so there's proof.

Another thing I also want to mention is that the CMA Bangladesh qualification is recognized by the Institute of Certified Management Accountants of USA, so anybody with CMA qualifications from Bangladesh can get a CMA USA qualification without any examination. So it is very difficult to understand, being that our neighbour, the USA, a bigger country, with 10 times the economy of Canada, and recognized all over the world—if CMA USA can recognize our qualifications, why won't CMA Canada recognize us? The unfortunate thing is that—we feel it insulting—they don't even consider CMA Bangladesh qualifications equivalent to an undergraduate degree. This is unbelievable. It's very unfair. Our members are suffering. A lot of our chapter members have moved to the USA because they got frustrated. There is no recognition at all in Canada about CMA Bangladesh.

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I just want to give some views about Bill 124. First of all, we congratulate the present Ontario government for bringing in this important bill, which was overdue. We hope this is the first step in the right direction but we strongly feel that there should be some important amendments to make the bill work effectively.

I just want to highlight some of the amendments we are proposing on behalf of CMA Bangladesh and BPAC, the Bangladeshi-Canadian Political Action Committee.

The first amendment we are proposing is to list all regulatory bodies in the bill. We feel it's very important. It should be clear, and the regulatory bodies should know, that they're accountable to the Fairness Commissioner. Otherwise, there will be a lot of confusion, especially from our point of view. We find it important that CMA Canada, CGA Ontario, all these organizations, have to be listed in the bill. We saw that Judge Thomson also listed them, all 36 regulatory bodies, in appendix B.

The Chair: You have about a minute left.

Mr. Ahmad: The second amendment we are proposing is to establish a separate department to evaluate equivalency. I think it's very important. The University of Toronto has equivalency for all universities. That will save time for everybody and I think it will make the system work more easily.

Another amendment we are proposing is the appointment of a Fairness Commissioner. We think he or she should be appointed by the Legislature and should report to the Legislature, because that will make the position less political.

The next amendment we are proposing is legal representation. People who want to apply and who are not

happy with the decision of the regulatory body should have access to legal representation. Also, there should be a timetable for taking decisions because a reasonable time—it could be open-ended. There should be a four-week, two-week time limit.

The next one is, there should be a fair registration practices code established. It was also my understanding that the Thomson report—

The Chair: Mr. Ahmad, we've run out of time. I'm sorry. Your comments are on the record, with your written submission. We don't have any time for questions either, so I apologize for that. Nonetheless, we do have your written submission as well. We wanted to thank you for coming today. Unfortunately, we're running behind on our schedule.

Mr. Ahmad: I understand. Thanks again.

The Chair: Thank you very much. We appreciate your presentation.

ONTARIO FEDERATION OF LABOUR

The Chair: Next we have the Ontario Federation of Labour. Please join us at the end of the table. If you could begin your presentation by stating your names for the record. You have a 10-minute time frame. When there's about a minute left, I'll let you know. If you leave time before your presentation time frame is up, the members will be able to ask you questions. Welcome, and begin.

Ms. Terry Downey: Good morning. My name is Terry Downey and I am the executive vice-president of the Ontario Federation of Labour. To my left is Pam Frache, who is the director of education and training at the federation.

The Ontario Federation of Labour represents over 700,000 working people in Ontario. I'm pleased to have an opportunity to present our federation's views on Bill 124, An Act to provide for fair registration practices in Ontario's regulated professions.

We are pleased that the Ontario government is moving forward with legislation that has the potential to transform the employment prospects of hundreds of new Canadians and, in so doing, greatly improve the living standards for their families, especially their children. Such a critical piece of legislation must provide for registration practices that are not only transparent, objective, impartial and fair, but are also accessible, accountable and enforceable. We therefore have a series of recommendations that I will present.

First of all, accountability: Accountability is a critical component of fairness. The Ontario Legislative Assembly is comprised of democratically elected members of provincial Parliament, and these MPPs are, in effect, advocates for internationally trained individuals and are ultimately accountable to their constituents for their decisions. As such, we believe that the Ontario Legislature should appoint the Fairness Commissioner and that the Fairness Commissioner ought to report back to the Ontario Legislature.

Moreover, the minister responsible must be assigned the authority and responsibility to actively intervene to fix problems as they are identified by the Fairness Commissioner. By ensuring that the Ontario Legislature receives the commissioner's recommendations, MPPs are in a position to hold the minister accountable if he or she does not fulfill his or her responsibilities in this regard.

Secondly, enforceability: For any practice or procedure to be enforceable, there must be clear criteria that determine a fair process. Vagueness, complication and interpretation are all ingredients that reduce the enforceability of legislation.

For example, although part II states that "A regulated profession has a duty to provide registration practices that are transparent, objective, impartial and fair," there are no clear criteria here that define any of these objectives. What one person believes to be fair may be quite unfair to another party. As such, we believe the legislation must include a fair registration practices code that clearly outlines criteria for what is indeed "transparent, objective, impartial and fair." In this way, regulated professions will have a standard against which their processes can be measured.

In addition, significant work must be undertaken to evaluate and establish equivalency between international and Ontario standards. This, we believe, will minimize uneven implementation of standards and interpretation in this regard.

Furthermore, the affected regulated professions must be named in the act to ensure that there is a common understanding of what is expected and from whom. While the act refers to "regulated professions," the act also refers to "internationally trained individuals" and suggests that the access centre will provide information and assistance to "trade or occupational associations, employers...." We need to ensure that this act is clear in its scope to ensure that the appropriate bodies are complying with the new higher standards of fairness and are undertaking work that is appropriate to the scope of this legislation.

Next I want to talk about accessibility. Perhaps the most important element of any legislation is the question of access. All the rules in the world can't impart fairness if those most directly affected cannot access the province—process. Freudian slip here. In this regard, we recommend that an independent regulatory appeals tribunal must be created that provides for a consistent process among all regulated professions covered by this act, that is independent and that provides free legal and professional support for those people who need to access the process. Any bureaucratic process that does not provide such support cannot possibly achieve its goal of providing fairness. For those with the financial means, they will always have a head start over those with little means.

We disagree with the provisions in this act under part III, subsection 11(5) for charging fees for accessing records relevant to any appeals process. Such user fees discourage and limit access to the basic elements of the appeals process.

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Lastly, we call on the Ontario government to make adequate grants, not loans, available to internationally trained individuals so that they can pursue any additional training they need without incurring crushing debt loads and reduced badly needed future earnings.

Ontario and Canada will profit from the fact that other countries have already paid for the basic and higher education of these individuals. This alone should be justification enough for such a measure. By ensuring that internationally trained individuals are quickly integrated into meaningful employment, Ontario and Canada will also benefit from the additional taxes these people will be generating as a result of high-paid employment. Eliminating financial barriers to additional training is a crucial element of this strategy.

In conclusion, Bill 124, we believe, offers real potential in moving forward to address the unemployment and underemployment of many recent immigrants. In addition to the recommendations we have already made, I'd like to remind the committee members that full inclusion of recent immigrants into meaningful employment must also be supported through greatly increased investment in language training and the active promotion of racism-free workplaces. The Ontario government may wish to consider launching a public education program to highlight the positive contributions of immigrants to the economic, social, cultural and political life of Ontario and indeed Canada.

I want to thank you for the opportunity to present today. I say to the Liberals in this room, this is an opportunity that the federation is being denied on Bill 107, and I say shame on you for that. But I look forward to this committee's careful reflection on the deputations and its co-operation in strengthening and improving this much-needed legislation.

The Chair: Thanks very much. You've not left very much time at all. I don't know if there's a quick question that Mr. Klees might have.

Mr. Klees: I would just ask you, if you would, to elaborate on your comment about Bill 107. Why is it that you feel that the Liberals have let you down on that?

Ms. Downey: This is a human rights issue. In Bill 107—

Mr. Ramal: On a point of order, Chair—

Ms. Downey: —I think it's really important that everybody have an opportunity to—

The Chair: Excuse me, can you stop for just a minute? Mr. Ramal.

Mr. Ramal: I think that question is irrelevant to the bill, and I wish the question would concentrate on the bill.

Mr. Klees: You are totally out of order.

The Chair: The question was asked. I believe the answer was given, and we've now run out of time. Thank you very much for the opportunity to hear from you this morning. I very much appreciate it.

Mr. Klees: On a point of order, Chair: I've been watching the proceedings. There hasn't been one time

when I have interrupted either a speaker or a member of the government in this committee. I would ask you to remind Mr. Ramal that in this committee every member has the right to ask any question whatsoever of any person who is a witness here. I would ask him not to interfere again the way that he did. It's not his place to do so, and it's an offence both to the witnesses and to me.

The Chair: Thank you, Mr. Klees. Again, I think we've had a successful couple of days of hearings, and I hope that all members will continue in a collegial fashion to hear from the witnesses, as that is exactly what this hearings process is all about. So thank you all very much for that.

COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

The Chair: Our next presentation is from the College of Physicians and Surgeons of Ontario. Can you join us at the end of the table, please? As you know, you have a 10-minute time frame for your presentation. If you leave any time within that, members will be able to ask you questions—if they behave. I'm only kidding. Please go ahead. Introduce yourselves at the beginning of your presentation for the record, please. I thank you for joining us.

Dr. Rocco Gerace: Good morning. Thank you very much. My name is Rocco Gerace. I'm the registrar of the College of Physicians and Surgeons of Ontario. I come to this role from an academic emergency medicine background, where I worked for over 25 years. Joining me is Louise Verity, who's the director of policy and communications from the college.

Let me say from the outset that you have a submission before you. I'm not going to read it; it speaks for itself. But I will simply highlight a few of the points.

I want to say that we are entirely supportive of the intent of this bill. Indeed, the college has been providing leadership in this area for over seven years. Our council, in 1999, issued a statement supporting the welcome and valued role of international graduates in Ontario over the last many years and, indeed, gave direction that we continue to enhance this. We've realized a number of successes. These successes have been alluded to frequently in the Legislative Assembly. So we are onside with the intent, but we do have serious concerns with this legislation, and these concerns warrant significant amendments.

I would suggest to you that, as it stands, this legislation has the potential not to enhance but to impair access of internationally trained doctors to the practice of medicine. We think that our amendments would contribute to the goals that are being sought, that the bill be fair, accountable and transparent in creating these registration processes.

With the disadvantage of international medical graduates, not only internationally trained doctors but the public at large will be disadvantaged. I'm sure all of you know that we face a severe doctor shortage in this prov-

ince, and so we want something that will work. We've circulated to you data around our successes in this area. In the last two years, we've registered more internationally trained doctors than we have doctors of Ontario medical schools; 25 % of the doctors in this province are graduates of international schools.

When Justice Thomson was preparing his report, we were very much involved and indeed very supportive of the provisions that he recommended. The college has made eight recommendations, and I will highlight some of these and hopefully have time for questions at the end.

Our first recommendation is that we change the name of the Fairness Commissioner to something different, something like an access coordinator. The suggestion—and I speak to our college—is that we're not fair. I've said once and will say again that we have been setting standards in this area provincially, nationally and indeed internationally. The idea of an independent commissioner is inconsistent with the principles of self-regulation, a principle that has been endorsed by multiple governments over many years.

Our second recommendation relates to the issue of audits. We're recommending either that the provision for audits be removed or, if there is a will to review, that it be a best practices assessment recommended to the relevant minister. I can tell you that this is our greatest concern. The concept of an audit would force adherence to a defined legislative framework. It would obviate the work of our college in measuring competence rather than measuring credentials. This, we think, would increase barriers. There has been no defined need for audits in the health professions. There already exists an arm's-length independent appeal process, the actual remedy recommended by Justice Thomson. There are changes anticipated to the RHPA, at least recommended changes, in which there will be reporting requirements for the registration committee to the minister. We think that these will be very assistive to both the minister and this commission in respect of registration issues. We think a best practices assessment rather than an audit would provide workable solutions to meet the government's objective of ensuring a fair, accountable and transparent registration process.

Another recommendation is that we feel there should be clear guidelines on when the minister might conduct an assessment. We don't think that these should be carried out ad hoc or on a regular basis. Keep in mind, again, that each individual registrant has access to an independent, arm's-length appeal process, the Health Professions Appeal and Review Board, that is appointed by government. We don't think that an assessment coordinator need do this.

The next issue is the issue of costs. We feel that government should bear the cost of any assessments or audits. It's a principle of self-regulation that costs are borne by the profession. By extension, registration costs are borne by new registrants. Therefore, given that this measure is related to internationally trained professionals, the costs of these measures, the cost of this bureaucracy will be borne entirely by that group.

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It's been suggested to us that the cost should be borne more widely by all registrants. This would have the effect of impacting new graduates of Canadian medical schools who are deeply in debt at the time of registration and create further burdens for them. We don't think this is desirable.

With respect to having to ensure third-party assessments, the college relies on the expertise of a number of assessors to assist us when assessing registrants. These assessors are national, have been in existence for almost 100 years, and include certifying bodies such as the Royal College of Physicians and Surgeons of Canada, the Medical Council of Canada and others. We simply have no jurisdiction in this area and it seems simply unworkable that we would have to provide any assurance of their activity.

Finally, if there is a will for a fair, accountable and transparent process, why do we not hold all stakeholders to some form of accountability? The issue of registering doctors is complex. The responsibilities lie not only with the college but with government, with the university and with many others. With this complex degree of responsibility, should government not be held equally accountable? Should government not equally have to report to this commissioner with respect to their activities around funding, around creating training positions and around creating an access body? We think that if accountability is due, the regulators play only a small part in this area and that accountability should be extended widely to all stakeholders.

Thank you. Those are my comments and I'd be pleased to answer questions.

The Chair: Thank you very much. We'll begin with Mr. Tabuns.

Mr. Tabuns: Yes. Thanks very much for that presentation. Does your organization currently have agreements of reciprocal recognition with colleges of physicians and surgeons in other jurisdictions around the world?

Dr. Gerace: No, we do not. The issue of registering doctors is a provincially held responsibility, and each province has its own criteria. Indeed, each state in the US has its own and every other country has its own.

Mr. Tabuns: I understand that in many jurisdictions, like Canada, it's not a national matter; it's a regional or a provincial matter. Okay. I was interested to know if you did have such agreements.

What portion of the people you register are able to go on and do residency? I'm afraid I'm not fully familiar with your process, but many doctors have said to me, "We're able to get our credentials recognized, but we aren't able to actually get residency so that we can go on and practice."

Dr. Gerace: The college has no jurisdiction over who gets residency positions. Residency positions are dictated, firstly, by government in respect of funding, and then by the universities in terms of accepting residents. Once a university accepts a doctor into a residency pro-

gram, while there is a screen, there are no barriers to registration with the college.

Mr. Tabuns: Thank you.

The Chair: Thank you very much for your presentation. We've run out of time, but we do appreciate you taking the time to come and share with us your insights today. Thank you.

SKILLS FOR CHANGE

The Chair: Our next group is Skills for Change. Welcome. As you get seated, again, the process is that you have 10 minutes for your presentation. Please introduce yourself for the record. I'll let you know when you have one minute left; however, if you leave more time than that, members will be able to ask you questions. Welcome, and please begin.

Ms. Shabnum Budhwani: Thank you. My name is Shabnum Budhwani and I coordinate a project called Teach in Ontario at Skills for Change.

"Work is one of the most fundamental aspects in a person's life, providing an individual with a means of financial support and, as importantly, a contributory role in society. A person's employment is an essential component of his or her sense of identity, self-worth and emotional well-being." That was a quote from the Supreme Court of Canada.

When newcomers find meaningful employment, it helps them to live with dignity and self-respect and gives them an opportunity to contribute and give back to their adopted country. They develop stronger ties and feel a sense of belonging; they become full citizens of the country. On the contrary, when the skills and educational qualifications of internationally trained professionals are not recognized, the Canadian economy suffers a loss of billions of dollars annually.

Canada brings into the country the best and the brightest from around the world so that we can benefit from the skills, experience and qualifications of these individuals and meet labour market shortages. What is the use of this if these individuals are unable to contribute the very skills and expertise that brought them into the country in the first place? When internationally trained individuals are unable to practise their profession, they may be forced to ultimately become dependent on the state for support instead of being able to contribute to the state and the economy. This is an undesirable situation in any account.

I wonder how many of us are fortunate enough to be able to get up every morning and have the pleasure of looking forward to going to work every day. As a front-line worker, I know only too well the pain and frustration and despair of countless people who have to drag themselves to work, perhaps in the middle of the night or in the wee hours of morning, going to work in places where their skills are unutilized and their education and experience hold no value. Research shows that it takes 12 to 15 years for immigrants to attain the same professional level that they held in their home countries—unfortun-

ately, a little too long or perhaps too late for some people. In the course of our work, we come across thousands of people who have fallen through the cracks.

My name is Shabnum Budhwani and our organization, Skills for Change, is a not-for-profit organization which helps new immigrants and refugees by providing learning and training opportunities so that they can participate effectively in the Canadian workforce and in the wider community. Last year, our agency served over 7,000 people. Approximately 70% to 75% of our clients find employment in their field or in related fields.

Our clients are new immigrants or refugees who come to Canada with their hearts full of hopes and dreams, but unfortunately for many of them, it is a long struggle before their dreams can turn into reality. New to the country, they face tremendous odds and barriers, and most of the professionals are not even completely aware of the lengthy and tedious procedure of licensing and certification they may have to go through before they can work in their respective fields. When internationally trained individuals immigrate to Canada, they do expect some difficulties and are open to undergoing professional or language upgrading, but most of them are taken aback completely and shocked by the multitude of barriers that they face in re-establishing themselves.

There is never a dull moment at Skills for Change. Having been a front-line worker for the last five years, I get to see and hear first-hand the compelling stories of our clients. What keeps me going is these stories: when people come to me and say they can afford to eat only one meal a day, that they don't want to depend on welfare and want to work and live with pride; or when I hear stories like that of a young mother who had to flee her home country, leaving behind two young kids in an orphanage; or when I think of the neurosurgeon who worked as a dishwasher in order to feed his family—hundreds of stories, each one different, each one leaving its mark behind.

These are our clients, and at Skills for Change we provide them with the resources that can help them to overcome some of these barriers. We provide language upgrading courses to help our clients enhance their communication skills, sector-specific terminology. We also provide skills upgrading courses in computers, book-keeping and accounting, and also employment preparation workshops, bridging and mentoring programs. A lot of our clients are internationally trained individuals who have years of experience in their home country.

I want to share with you the story of Manjeet. Manjeet immigrated to Canada over two years ago with 10 years of experience teaching science in secondary schools. Manjeet says there's only one thing he is trained to do and loves to do, and that is to teach. When he came to Canada his dream was of being able to open a classroom door one day and to say "Good morning, children." Unfortunately, he had to almost give up his dream. Like everyone else, he immigrated with hopes to be able to contribute his skills and knowledge to Canada, but soon realized that licensing and certification was going to be

time-consuming and not easy. He took up a factory job working from 2 p.m. to 2 a.m. in order to feed his family of four. Many times he wanted to give up and go back, but it was his wife who stood by him, who believed in him and urged him on. After all, he had been an excellent teacher, whose contribution had been publicly recognized in his home country. One of his students had topped the province in his secondary exams, giving all the credit for his success to his wonderful teacher, who had always gone over and beyond the call of duty to support and motivate his students. "But of course here in Canada, I am nothing." This is the kind of hopelessness and despair that spells the end of the road for many immigrants who cannot manage to keep pace with what seems to be a dead end.

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When Manjeet saw no hope of progress in his physically taxing factory job, he obtained a heavy-vehicle driving licence so that he could take up truck driving in order to feed his family. It was then that somebody pointed him to Skills for Change. Here he saw a ray of hope in his bleak and hopeless situation. He joined the advanced language proficiency courses offered at Skills for Change specifically designed for internationally educated teachers, learned to use idioms, regained his hope and confidence, passed the language requirements of the regulatory body and gained his interim certificate of qualification.

Five days later he joined the Teach in Ontario program at Skills for Change, a bridging program for internationally educated teachers that assists them in successfully integrating into the Ontario public school system. The program provides orientation, precise and clear information, one-on-one counselling, classroom management techniques, observerships, mentoring, document intervention, interview practice and opportunities for supply teaching. Within weeks of graduating, Manjeet got an interview for supply teaching. Thanks to the orientation to Ontario classrooms that he had received in the program, he confidently answered all the interview questions and came through with flying colours. As Manjeet said, "The day I heard that I had been put on the supply list was a celebration in my house." Now there is no looking back for Manjeet and his wife, who is a teacher too.

These are the kinds of life-changing events that can happen in a person's life when they are able to integrate successfully into the labour market—changes that can have a deep bearing not only on their lives but also on the lives of their families. It can mean the difference between acute poverty, hopelessness and despair and a comfortable life filled with pride, dignity, self-respect and the desire and ability to contribute and give back to society.

This is an example of a partnership between the government, community organizations, a regulatory body and the federation that has proved to be successful, even resulting in systemic changes in the interpretation of regulations that have hastened the certification process for over 200 teachers. This project has, to date, certified

over 850 internationally educated teachers. This example shows how significant that changes in the process of licensing can be to the lives of internationally trained individuals.

We are very excited about Bill 124. This kind of framework provides for fair registration practices in all the regulated professions across the board, providing permanent, long-lasting and long-term solutions. We will no longer have to depend on voluntary initiatives within individual professions.

The Chair: You have about a minute left.

Ms. Budhwani: Bill 124 will create a level playing field and transparent accountability to the public. This is so imperative, especially when we continue to welcome thousands of doctors, engineers, accountants, agrologists and nurses from around the world.

Bill 124 is not going to compromise occupational regulatory bodies or the public. The bill is not intended to lower the standards or jeopardize the degree of protection offered to the public.

The introduction of Bill 124 is also cost-effective. Currently, millions of dollars are spent by the government on support mechanisms to assist the internationally trained to integrate into the labour market. With Bill 124, we anticipate that some of the cost will be reduced as, with more accountability and a transparent process, the process of licensing should be smoother. More responsibility will thus rest on the regulatory bodies to ensure smooth integration.

When I reflect on all this, the example of a traffic light comes to mind. Everybody knows that you need to stop at a red light, yet why do we have a law to enforce that? Because if there is a law, then we have a right to question and to get an answer; we have a right to enforce and to track, to make sure that there is accountability and that there is proper adherence. Without legislation, nobody would have the right to ask why and be obliged to get an answer. It's about time we all asked why.

The Chair: Thank you very much. You've used up all your time, so there's no time for questions. We appreciate your presentation.

NEWCOMER WOMEN'S SERVICES TORONTO

The Chair: Next we have Newcomer Women's Services Toronto. Welcome. Please join us. You have a 10-minute time frame for your presentation. Please begin by introducing yourself for the record. If you have time at the end, we'll be able to ask you questions. I'll let you know when you have a minute left. Welcome, and thanks for coming.

Ms. Marguerite Pyron: Good morning. My name is Marguerite Pyron. I work as the CEO of Newcomer Women's Services Toronto. NEW has served the community for 23 years now. Our mandate and mission is to promote the social, economic and cultural integration of newcomer women and their families. NEW is one of only

a few agencies that provide services exclusively by women for women.

At the outset, I thank the standing committee for the opportunity to present on the bill, and I also thank Minister Colle and his staff for their work, as well as the committee for its deliberations.

I hope to bring to your attention what might be a unique perspective to the committee's view of this bill. When our agency was established in 1983 as New Experiences for Latin American Women, a considerable number of the clients we served were victims of domestic violence. Many of the women who came to us for help and support had fled to Canada to escape violence in their home countries, only to come face to face with it in their own homes at the hands of family members whose expectations of a better life in Canada had been dashed against tremendous barriers to their successful integration.

In 1996, when our organization opened its doors to newcomer women from everywhere in the world, we found that an increasing number of our clients were highly educated in their home countries but experiencing multiple barriers when attempting to obtain employment in their chosen professions here. Indeed, in recent years, nearly 90% of women participating in our programs were university graduates in their home countries. However, despite being the best and the brightest, as required by our immigration policy, they have all too often found it next to impossible to continue to work in their field.

I would now like to speak to the client characteristics briefly. Those of us who work in this sector are often strongly influenced by the stories of the newcomers we serve, and the nature of our work is sometimes altered as these stories change. We know that the women who come to this country bring with them a great deal of resiliency and creativity. Often they are the only ones around whom the whole family life and the success of the family's integration oscillates.

Time and again we hear stories from our clients of the disappointments and frustrations they and their families have faced because of the considerable disconnect between their expectations upon leaving their country of origin and the realities upon their arrival in Canada. They too often learn that post-secondary education and experience gained in their home country counts for little or nothing here, and unless they are able to spend a great deal of time and money, there is little possibility of their being able to continue in their chosen profession.

Failure to successfully integrate has a huge price attached to it, and the costs are allocated to most areas of our infrastructure, including health, housing, justice and education. Greaves et. al. in 1995 estimated that the partial cost of violence against women amounted to a staggering \$4.2 billion annually.

NEW has made it a priority in its overall strategy to provide employment opportunities for newcomer women facing multiple labour market barriers in Canada. However, our clients continue to report that they face a long and often arduous road to attain the necessary credentials

to allow them to resume the careers they abandoned to seek a better life in Canada. Many of them report juggling their family responsibilities and survival employment with evening and weekend study, and some report that the experience has eroded their dignity, self-esteem and personal confidence and even resulted in depression, physical illness and violence in the family.

According to the Family Violence Initiative December 2002 report: "Diversity has given Canada many advantages, yet it has also challenged institutions to respond to a complex range of needs associated with integrating diverse populations into Canadian society. Issues relating to family violence in newcomer families include additional stressors, fewer social resources, financial pressures, intergenerational conflict, trauma caused by separation, racism, language barriers, isolation, threats of deportation and threats of separation from children. Newcomer women abused by their partners may be less likely to report abuse because they may be unaware of where to seek help or unsure that help would be forthcoming."

Family violence exacts an enormous toll on victims, perpetrators, their families and communities. Victims of family violence may experience pain and suffering that affects every aspect of their lives, including serious consequences for their physical and mental health. Individuals and families whose lives are harmed by family violence and fear may be less likely to participate in and contribute to community life, especially the children. Children who are abused, including those who are exposed to spousal violence, may experience physical injuries as well as other physical, psychological and behavioural problems that extend into adolescence and adulthood.

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I would like to speak now to the depreciation of human capital. The Canadian Task Force on Mental Health Issues singled out the barriers to trades and professions as major factors leading to an "erosion of skills, loss of technical idiom and diminishing confidence in one's capabilities." In economic terms, this means a systematic de-skilling and consequent depreciation of the human capital that Canada has gained through immigration.

There are three areas of concern to which I would like to speak now.

The list of regulated professions: Bill 124 in its current form does not include the list of regulated professions which will be covered by the legislation. We propose that the list of regulated professions be included with the bill to provide clarity, universal understanding and public approval.

OCASI submits that a decision to make the application of the act dependent upon listing of a profession in accompanying regulations will seriously imperil the purpose of the act. The most fundamental question in determining whether professions and individuals are governed by practices that are transparent, objective, impartial and fair will be the question of whether the act will apply.

Unless the act applies to a profession, nothing with respect to that profession will change and qualified professionals will be left without recourse. The applicability of the act is too important to be left to be dealt with by regulations. Changes to an act, unlike changes to regulations, must be put before the Legislature for a vote. Changes to regulations occur without a vote in the Legislature and are subject to far less oversight. The current Liberal government should not presume that subsequent governments and bureaucracies will share its commitments and priorities and should be concerned about allowing professions to be excluded from the act without legislative debate. The applicability of the act must remain in the public eye.

Regulations appropriately provide for bureaucratic expediency, but the question of whether the act should apply to a profession is not a detail related to the implementation of the legislation. It is rather a central question and one which should remain with the Legislature. OCASI therefore recommends that the professions that are currently proposed to be included in accompanying regulations be listed in the definition of "regulated profession" in section 2 of the bill. Ideally, all regulated professions should be included in the definition of regulated professions, except those that are dealt with by the Regulated Health Professions Act, 1991. As a member of OCASI, we concur with that recommendation.

Two, we propose that the training required by individuals assessing the credentials is a critical piece of business and that it needs to be stringent and thoughtful. Assessment can be a challenge at the best of times, and the consequences of wrong decisions have a too-serious negative impact on the applicant.

Therefore, we are requesting that the regulators be given assistance in the development of training plans and materials, that the content of these plans and materials be carefully reviewed before application, and that the individuals engaged in this training be required to achieve a specified standard before they can apply their responsibilities as the assessors.

The Chair: You have about a minute left.

Ms. Pyron: Thank you. The existence of an independent tribunal as an adjudicative agency to oversee the decisions rendered by the self-regulated professions is paramount to the credibility of the process and value of the assessment. We submit that the creation of such an independent tribunal be carefully considered and implemented.

In conclusion, we submit that employment is one of the basic human rights in Canada. It is an element of one's life that, for many newcomers, is a validation of their many years spent in education and pre-immigration work experience. We submit that the promise of expedient access to employment given to newcomers prior to immigration must be fulfilled because it is the ethical consequence of that promise, because it is good business and because Canada's economic future demands it.

I thank you all for allowing me this submission. I thank all newcomers and service providers who are

making this bill a reality. At Newcomer Women's Services, we are looking forward to a new and positive chapter in newcomers' settlement in our province and we are delighted that the government policy is moving in a direction of greater fairness and equity for newcomers.

The Chair: Thank you very much. We appreciate your presentation. Unfortunately, there isn't any time for questions, but thank you for coming in this morning.

COLLEGE OF MEDICAL RADIATION TECHNOLOGISTS OF ONTARIO

The Chair: Next we have the College of Medical Radiation Technologists of Ontario. Please join us. You have 10 minutes for your presentation. You will have an opportunity to have questions asked if you leave some time at the end. I'll let you know when a minute is left in your presentation. Please begin by introducing yourselves for the record. Welcome.

Ms. Sharon Saberton: Thank you and good morning. My name is Sharon Saberton. I'm the registrar of the College of Medical Radiation Technologists of Ontario. With me to my right is Linda Gough, the deputy registrar of the college, and to my left is Debbie Tarshis, our legal counsel from WeirFoulds.

The College of Medical Radiation Technologists of Ontario is the regulatory body for medical radiation technologists in Ontario. Our mandate is to serve and protect the public interest through self-regulation of the profession of medical radiation technology. It is the role of the college to protect the public of Ontario by ensuring that applicants meet the standards of qualification in order to practise the profession of medical radiation technology. It is critical to the health and safety of the patients of Ontario that all medical radiation technologists meet the standards of qualification in order to be issued a certificate of registration. Otherwise, patients of Ontario will be at risk of harm.

The college understands that the purpose of the Fair Access to Regulated Professions Act, 2006, is to help ensure that regulated professions and individuals applying for registration by regulated professions are governed by registration practices that are transparent, objective, impartial and fair. The college also understands that it is intended that the act will accomplish the goal of improving access for internationally educated applicants to the regulated professions.

While the college supports the goal of the act, the college does not believe that the act will accomplish the goal. The college firmly believes that the act will have unintended consequences that will have a negative impact on access to the profession of medical radiation technology and access to quality care for patients in Ontario.

I'm now going to move over to page 6. I want to just highlight our current registration practices. First of all, I think it is important to note that an internationally educated applicant can begin the application process to the college from his or her home country.

The process for registration as a medical radiation technologist in Ontario is set out in the Health Professions Procedural Code, a schedule to the Regulated Health Professions Act. If the registrar does not believe that an applicant fulfills the registration requirements, the applicant's application is referred to the registration committee. The applicant is given notice of the reasons for referral to the committee and is entitled to make a written submission to the committee regarding his or her application. A panel of the registration committee reviews the application, considers it. The panel then issues a decision that must be given in written reasons for its decision. An applicant who is not satisfied with the decision of the panel has a statutory right to a review by the Health Professions Appeal and Review Board, HPARB, an adjudicative agency which is independent of the college. An applicant may request a document-based review or a hearing by HPARB.

Next, I'm going to go over to page 8 and talk about specific comments that the college would like to make with respect to this act. The act will create barriers to registering applicants. We believe that the college provides information to applicants; provides written decisions and reasons within a reasonable amount of time; makes publicly available information on documentation; makes objective, transparent, fair and impartial assessment of qualifications in accordance with its registration regulation; and provides access to applicants to the records held by the college with respect to their applications.

We believe that the college has registration practices that are effective in ensuring that only competent medical radiation technologists are registered, while being transparent, objective, fair and impartial. Between January 1, 2000, and December 31, 2005, inclusive, 575 applications were reviewed by the registration committee. Of these applications, 497—86%—were approved, and 36—6% of the total applications reviewed—were the subject of an appeal. Of those 36 appeals, five were successful; that is, the Health Professions Appeal and Review Board referred the applications back to the registration committee for reconsideration.

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What does the act propose to do to further the objectives of fair registration practices? It is proposed that the college devote significant resources to making the following new reports:

(a) reviews of its registration practices at such times as the Fairness Commissioner may specify to ensure that its registration practices are transparent, objective, impartial and fair;

(b) a fair registration practices report annually or at such other times as the Fairness Commissioner may specify;

(c) reports or information relating to the college's compliance with specified sections of the act, in addition to the reports referred to above.

In addition to these reviews and reports, every three years, or at such other times as the Fairness Commissioner may specify, an audit of the college's registration

practices is required to be conducted at the expense of the college. The act does not specify audit standards, the scope of audits or the frequency with which fair registration practices reports and audit reports will be filed. Although these are functions of the Fairness Commissioner, no details are provided in the act.

Not only will the new reporting requirements and costly audit processes have an impact on the resources and funds that are currently applied to the registration processes of the college, the college believes that these requirements will also have an impact on the assessment process itself. The duty of the college is to protect public safety by ensuring that only competent professionals are registered to practise medical radiation technology in Ontario. In the area of medical radiation technology, there's a wide range of educational programs and training internationally. The current registration process permits the college to individually assess the education and competence of individual applicants. The result of imposing multiple layers of reporting requirements will be to convert what is a flexible and responsive assessment process into a standardized and less individualized process. This change will be necessary in order to accommodate the completion of reviews, reports and audits. The college believes that the processes of standardized reporting requirements and audits will in fact disadvantage applicants by reducing the flexibility of current registration processes.

We do have some recommendations outlined on page 11, but I'm going to move now to page 12 and talk about our second concern, that the act will create conflict and confusion.

Currently, the college is accountable to the Minister of Health and Long-Term Care. The college is required to report annually to the minister on all of its activities, including registration. In addition, the minister has the authority to review the council's activities and require the council to provide reports and information, to require a council to make, amend or revoke a regulation under a health profession act, and to require a council to do anything that, in the opinion of the minister, is necessary or advisable to carry out the intent of the RHPA or a health profession act.

The college is also accountable through the regulation-making process. The requirements for registration as a medical radiation technologist are set out in the registration regulation made under the Medical Radiation Technology Act. The regulations of the college are subject to review by the Minister of Health and Long-Term Care and approval of cabinet. In addition, with respect to registration matters, the college and the decisions of its registration committee are subject to review by HPARB, which is an independent adjudicative agency.

In relation to registration matters, it is now proposed that the college be accountable to three oversight bodies: the Fairness Commissioner, the Minister of Health and Long-Term Care and HPARB. This legislative proposal places the college in an untenable position of receiving inconsistent or conflicting advice, direction—

The Chair: You have about a minute left.

Ms. Saberton: —or requirements from all three of the above.

I'm going to now move to the recommendation following that concern, which is that the proposal to create a Fairness Commissioner be reconsidered so that confusion and conflict not be created as a result of the college having three oversight bodies.

Finally, the college believes that the oversight of the health regulatory colleges is in fact effective. The college's registration decisions, like those of the colleges governed by RHPA, are subject to an independent appeal of the Health Professions Appeal and Review Board. HPARB is an administrative tribunal independent of the college.

In conclusion, the college believes that while there is always room for improvement, the current registration practices of the college and current oversight by the college through the RHPA, the code and the regulations is effective. The college therefore recommends that RHPA colleges be excluded from the scope of this act.

I thank you for your time.

The Chair: Thank you very much. Unfortunately, there's not time for questions, but the committee appreciates your comments today.

MAYTREE FOUNDATION
MANULIFE FINANCIAL/
TORONTO REGION IMMIGRANT
EMPLOYMENT COUNCIL

The Chair: Our final presentation for the morning is from the Maytree Foundation and the Toronto Region Immigrant Employment Council. Can individuals from that organization join us at the end of the table? Thank you for coming in this morning. You have 10 minutes for your presentation. If you leave some time at the end of that, we'll be able to ask you some questions. I'll let you know when there's a minute to go. Please begin your presentation by introducing yourselves. Welcome.

Ms. Elizabeth McIsaac: Good morning, and thank you, Madam Chair and honourable members. My name is Elizabeth McIsaac, and I'm the director of policy with the Maytree Foundation, which is a private charitable foundation here in the city of Toronto.

We have a special interest in the issue of employment for immigrants. As a private foundation, Maytree is committed to finding practical solutions to our objectives. One of these practical solutions has been the establishment and development of the Toronto Region Immigrant Employment Council, TRIEC, which is a project of the foundation. We have done this with the leadership of Manulife Financial. And today I am joined by Murray Coolican, vice-president of corporate affairs for Manulife Financial, who will speak on behalf of Manulife and TRIEC.

I'd like to begin first with comments from the point of view of the foundation and its work on this issue, and then I'll turn it over to Murray.

At Maytree, we see efforts to move the marker on complex public policy issues, like access to professions and trades, like licensing internationally trained professionals, as long-term commitments. In fact, we refer to it as "relentless incrementalism," an awkward turn of phrase.

Attention to this issue has been building and articulated recommendations have in fact been on the table since the access report more than 25 years ago. In fact, this has not been a partisan issue. Indeed, each political party in Ontario has acknowledged the issue as being of vital importance to Ontario, each political party has wrestled with it when they were in power, and each political party has made contributions toward solving the problem. But 25 years later, we still have a ways to go. So we relentlessly push forward, and I believe that Bill 124 is the next increment.

Our work on this particular aspect of the issue at the foundation began six years ago when we began to convene occupational regulatory bodies to discuss issues of mutual interest around assessment and recognition of international qualifications. The objective of these meetings was to begin a dialogue among the regulatory bodies around challenges, successes and possible strategies in access to professions and trades and in licensure. In partnership with the regulatory bodies, we developed a learning agenda that included a series of topics, from competency-based assessment practices to creating policy, the impact of rising standards or "credential creep," as it's sometimes called, fair language assessment and so forth.

One of the outcomes of this process was the decision on the part of a group of Ontario regulators to form Ontario Regulators for Access to develop and design proactive approaches for working with internationally trained professionals seeking access to the professions. We saw this as a positive step forward in terms of regulatory bodies wanting to do a better job of recognizing and licensing the internationally trained. However, there was no public accountability for this process, no requirement for participation, no clear benchmarks to be achieved, and no transparency.

We see Bill 124, therefore, as providing a framework for greater accountability and transparency and as an important and necessary step forward. You will hear concerns about how the bill is going to be implemented, about whether it goes too or not far enough in terms of accountability, transparency and authority, and that should make for good public debate. But don't let debate delay action.

As this bill moves forward toward legislation, regulations and implementation—and it should—there should be two things that guide this process. First, there must be a commitment to open an inclusive dialogue on shaping the institutions that will be created as a result—a fairness commission, access centres and so forth. Second, there must be a vision for Ontario more broadly, that while every licensed professional in the province should and must meet the established standards, so too should we

ensure that every international professional who does meet those standards gets licensed.

I'll turn it over to Murray.

1210

Mr. Murray Coolican: Good afternoon. As Elizabeth mentioned, I'm from Manulife, but I'm also speaking today on behalf of the Toronto Region Immigrant Employment Council, or TRIEC. Manulife became involved in and took on a leadership role in TRIEC because we see immigrant employment as an issue that is having and will continue to have a profound impact on our company, our city and our province, and it's an issue on which all stakeholders—and I include the private sector in that—need to do a better job.

We see in Ontario and Canada a critical need to recognize people's skills and talent effectively. From a business perspective, it is your people who make you competitive, and in Canada in 2006 this must include skilled immigrants.

As Elizabeth mentioned, this issue can become complicated with the number of players at the table, but the reality is that we need to have clear rules for who does what and how they do it. Employers are partners in working towards this goal: more skilled workers using their education and training to benefit the economy and the broader community. When this does not happen, we all lose.

I see Bill 124 as adding the rules or guidelines that regulatory bodies can refer to and work towards and that others can rely on. This is an important step forward in making immigrant employment work better in Ontario.

So what difference will Bill 124 make? I think it will make a significant difference. First of all, the proposed access centre will be an identifiable source of reliable information on licensure and registration for internationally trained professionals. This centre can play an important role in helping to solve the information problem and supporting immigrant professionals in charting their own path and understanding their options. At TRIEC, we know from our experiences with immigrant professionals and the institutions they interact with that there are very complex systems that need to be simplified into a clear path that can be navigated in a reasonable time.

The proposed act will require regulatory bodies to adopt fair and transparent registration processes. I think that this will lead to a more responsive system that is better able to accommodate the barriers that internationally trained applicants face. From the point of view of business, this is essential. If Canada continues to see immigration as an integral part of its labour force development strategy, then there must be co-operation with all partners in the process and we need to know what we can expect of those partners.

Under the proposed legislation, a Fairness Commissioner will be appointed to assess and oversee auditing and compliance with the legislation, the idea being that oversight will help ensure that all applicants are treated fairly. This is important for, without oversight, implementation and accountability cannot be assured.

In conclusion, on behalf of Manulife Financial and TRIEC, I encourage you to support this bill and to share in the success of moving this issue forward yet another important step along the way.

The Chair: Thank you very much. There's a little bit of time for questions, starting with Mr. Ramal.

Mr. Ramal: Thank you very much to TRIEC and Maytree Foundation for playing a pivotal role in our community to help many newcomers to integrate. I know you've been a great advocate of many immigrants who have special skills and professions who want to be full participants in our community.

I agree with you. I don't have any questions, but I agree with you. It's very important for all of us to support passage of the bill. As you heard—many people spoke before. Some people said that it goes too far; some people said that it doesn't go far enough. We're not going to go through that debate. But I want to say that the most important thing is that we encourage all members of the committee to help pass the bill and then, in the future, we'll hopefully eliminate all the little things found by the Fairness Commissioner as obstacles. I guess we're willing as a government, as a ministry, to work with everyone, with all the professional regulatory bodies in order to eliminate all the obstacles.

The Chair: Mr. Klees.

Mr. Klees: Thank you very much for your presentation and for the work that you do. I don't know if you were here, but I asked a question of an earlier presenter, if there was one thing that government could do, beyond simply regulatory issues, to help newcomers, and the response was to do the work that you're doing. They mentioned your organization and the good work that you're doing in the community.

The parliamentary assistant said that it doesn't matter. Some people think it's gone too far, some not far enough and it doesn't really matter, that they're going to do whatever they're going to do. The purpose of this process, this standing committee, is to make legislation as good as we can make it. So I'm hopeful that this government will at least listen to people who have something positive to say about how it can be improved.

I would ask you this: Looking at this bill, if there was one amendment, one change that you would like to see to it, in a positive way—and that is not to say that we don't like the intent of this bill—what would that one change to this bill be that would help you to better do the work that you do?

Ms. McIsaac: I actually think that the way the bill has been framed—and in a way it's somewhat framework legislation, so much of it will be left to the regulations. What needs to happen is that we have an attentive and inclusive process as those get developed and implemented. I think the framework is more or less there. I think the recommendation that OCASI has made around the specific inclusion of who is covered, for the sake of clarity, is a useful recommendation. What is there is a good place to begin.

The point of my comments—I don't think you just heard us say, "Yes, it's good debate, and we'll leave it there," and just move along, not paying attention. We have read it, we've taken a careful look at it, and we feel that it's a good starting place. I think there's going to be a significant amount of adjustment for the regulatory bodies, so you don't want to overwhelm them at the outset. You want to encourage them to see how this can benefit them and that it's not a barrier, but rather something that will enhance their capacity and excellence in registration. I think what we have right now is actually a very good starting place.

The Chair: Thanks. We've run out of time, and the committee has actually gone a bit over their schedule. I want to thank you very much for your presentation. Thank you for coming in today. We appreciate your comments.

Committee members, we are adjourning this meeting now, but we do have a meeting on December 6 at 10 o'clock in Hamilton. Thank you very much. It was a good meeting. The meeting is adjourned.

The committee adjourned at 1217.

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**Standing committee on
regulations and private bills**

**Comité permanent des
règlements et des projets
de loi d'intérêt privé**

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLSCOMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ

Wednesday 29 November 2006

Mercredi 29 novembre 2006

*The committee met at 1005 in committee room 1.*RED LEAVES
RESORT ASSOCIATION ACT, 2006

Consideration of Bill Pr30, An Act respecting Red Leaves Resort Association.

The Chair (Ms. Andrea Horwath): I will start by calling the meeting to order and ask that the committee have a look at the agenda, the consideration of Bill Pr30, An Act respecting Red Leaves Resort Association. The sponsor of the bill is MPP Norm Miller and the applicant is Robert Comish, secretary of the organization. Welcome, both of you. Would the applicant have any comments to committee as we begin the procedure?

Mr. Norm Miller (Parry Sound-Muskoka): Can I start, please, Chair?

The Chair: First Mr. Miller? Absolutely.

Mr. Miller: As the sponsor, I would just like to add a few general words of support for this Pr bill. It creates a Red Leaves Resort Association. It's a necessary structure for the village-type development being developed in Parry Sound-Muskoka, in the township of Muskoka Lakes, at the location of the former Peyton House resort. This creates a unique governance structure for a destination resort similar to the type of structure used in the Intrawest development at Collingwood and also at the Mont Tremblant development village at Tremblant, Quebec, and it's also been used in BC and in the west.

I would like to speak briefly about the importance of this development not only for Parry Sound-Muskoka but for all of Ontario. It is a huge development, and we're seeing the beginnings of it already in that parts of it have been built. The Rock golf course, a championship 18-hole golf course, has been built. I think they're just about putting the roof on the J.W. Marriott hotel, the first of its kind in Canada, the most exclusive of the Marriott chain, and they're starting on the Marriott residences as part of the development. Also as part of the development there's a whole retail and village-type development, similar to what you've seen in Whistler, BC, and in Collingwood and Mont Tremblant.

All I would say is that I'm very pleased that Ken Fowler Enterprises and Ken Fowler have started this development. I see it as being the new face of tourism, certainly in Muskoka but also in Ontario. It's a huge

project. When it's built out, it could be some \$800 million. It could have huge benefits for the province of Ontario, up to as many as 6,000 jobs created and \$100 million a year in revenues for all levels of government when the project is completely built out in some 20 years or so; I think 25 is the time when it would be completely built out.

In terms of why this Pr bill is required and necessary, I'll let Mr. Comish do the explaining of that, because he can do a lot better job of it than I might be able to do. I'd just say that I'm certainly supportive of this and it's necessary for the development they're proposing.

The Chair: Thank you, Mr. Miller. Mr. Comish?

Mr. Robert Comish: I'm of course here to answer and respond to any questions or comments that any members of the standing committee have, but I might just start by giving you a little bit of an overview.

This is the second destination resort being built in Ontario. A destination resort is a resort that is designed to operate 12 months a year. To do that, you have to have a significant amount of structure in place. The Blue Mountain Resort in Collingwood is the first one. It's well under way now; it's pretty well half-finished. We're building the fifth hotel. It's proving to be very successful. Ken Fowler Enterprises is making a very similar financial commitment to the Red Leaves Resort. As Mr. Miller indicated, the estimates are that at least \$800 million will be spent developing the resort over a number of years.

1010

The destination resort model drives a totally different type of tourism. It drives tourists from a significantly larger geographic area, what's called the rubber tire market, which is anywhere from a six- to eight-hour drive. People will come to a destination resort where, generally speaking, they are not prepared to drive those kinds of hours to go to a typical Ontario resort, so it expands the market for tourism well into the States. Blue Mountain is already making very successful inroads into that market. We're looking forward to doing the same thing with Red Leaves.

The resort association itself is a unique animal and requires special legislation because it needs certain features which can't be found under any of the public statutes, the Condominium Act or the Corporations Act. The compendium that was included with your package I think tries to outline that, but I'll be happy to expand on it.

Essentially, the thing we're trying to address is the fact that whereas most Ontario resorts are owned by one corporation, a destination resort by its very nature is owned by a whole series of different stakeholders. First of all, the resort itself is usually billed out on a condominium basis, so that all of the suites in all the hotels and the town homes, the cottages, are individually owned, but most of them are also put into rental programs so there's a significant rental operation going, so that you're getting maximum usage of this tourism amenity. You have homeowners and you have commercial owners; a commercial village is always a very important aspect of a resort like this because it's a huge amenity and draw to provide people with something to do while they're there when the weather may not be ideal.

In addition to that, there are a number of recreational amenities that have to be developed and then owned and operated by one or more entities, so it's golf courses and indoor aquacentres, tennis facilities and things like that. You end up with anywhere from five, six, seven, eight different types of groups of people who have a different economic interest in the resort from their fellow stakeholders. The result is that you need some kind of governance model that will allow them all to have some input into how the resort is operated as a whole, and at the same time it ensures that you have a mechanism to draw fees from these people who benefit from the resort, from all of them in a very equitable way, and have enough funds to pour back into the resort to maintain it year-round.

I think that's a bit of an overview. I'd be happy to answer any questions.

The Chair: Thank you very much, Mr. Comish. We appreciate that. First, before I go to the parliamentary assistant, I'm just wondering if there's anyone else in the room who would like to make comments on this bill to me.

Okay. That's great, then. I guess the next order is the parliamentary assistant, who will give comments from the government's perspective on the bill.

Mr. Mario Sergio (York West): First of all, I'd like to compliment the member for Parry Sound-Muskoka for bringing the bill to our attention here. The bill has been circulated to the relevant ministries and we have no problem with the bill. The Ministry of Tourism, as a matter of fact, supports the bill as it deals with making improvements to our tourism industry. The Minister of Municipal Affairs and Housing has no problem; he sees no problem. We couldn't see, the minister couldn't see, any implication or complication with respect to the local municipalities. We are in support of the bill.

The Chair: Excellent. Thank you very much, Mr. Sergio.

Are there any questions or comments from the committee members?

Mr. Bill Mauro (Thunder Bay-Atikokan): Just one. The act, then, will apply to any structure on the property described from today to complete build out. Is that accurate? Private, public, commercial—anything?

Mr. Comish: Yes, that's right. There is a geographic area defined because, as you know, it's attached as a schedule to the act. That geographic area can expand or contract depending on how the development actually moves forward. It's highly unlikely it will change dramatically from what it is now, but essentially, if you buy any interest in real property within this geographic area and become an owner in fee simple, then you are automatically a member of the association.

Mr. Mauro: Subject to the governance of the—

Mr. Comish: Exactly.

Mr. Mauro: But you mentioned also that the geographic area can change and expand?

Mr. Comish: Yes.

Mr. Mauro: From what's described here today?

Mr. Comish: Yes.

Mr. Mauro: And then the act would apply to that expanded geography?

Mr. Comish: Yes. How that would happen is, the owner of, say, an adjacent piece of property decides that for his own reasons, it would be wonderful to be part of the resort. He would make application to the resort association to become a member. If it is in the best interests of the resort association and all its members, then he'd be welcomed in. He would then have this bill registered on the title to his property, so his property would then be treated exactly like all of the rest of the real property, and that owner would pay fees based on the structure that's already in place under the bylaws.

Mr. Gerry Martiniuk (Cambridge): Thank you, Mr. Comish. I understand that this property is located on Lake Rosseau, which I take it is the premier lake in Ontario. It brings back old memories because it includes the old Clevelands House property, where I spent many happy moments on Saturday nights over the years in my younger days. I remember in particular that it had two docks; one was 40 feet long and one was about 15 feet long. At about 12 o'clock one Saturday night, when I was sent out for more liquid refreshment, I took the wrong dock, the short dock. I ran out of dock and found myself in the water. It brings back great memories.

As you mentioned, these are fairly unique properties. They're destination properties; we only have one other. I'm just wondering, in regard to future legislation, number one, if there aren't going to be possibly that many of these destination properties in Ontario to make it worthwhile to do a general bill. The corollary of that of course is, can you generalize or is each project going to be very unique and require special legislation rather than general legislation?

Mr. Comish: The answer is that, actually, British Columbia already has a public statute that allows anyone to incorporate under that statute a destination resort non-profit corporation. It would be equivalent to our Business Corporations Act or our Corporations Act. The reason they did it was, because they have so many mountain resorts there, there were a number of people coming forward asking for special legislation. At some point, at least in BC, they said, "You know what? We should do a

public statute," which they've done, and it seems to work fine.

But I think you probably put your finger on it: In Ontario, the number of destination resorts that could be built are probably somewhat limited. We have a limited number of unique recreational facilities, such as a high mountain, for instance. That's the kind of thing. You need something pretty unique in order to qualify as a destination resort.

The other unique feature, if you do not have something like a mountain, is that you then need to be very close to a major market. That's of course why Blue Mountain is successful, and Intrawest believes it will be only more successful. Red Leaves is anticipating the same thing.

1020

Mr. Dave Levac (Brant): Mr. Comish, thank you so much for your presentation, and, Mr. Miller, your support for it by sponsoring the private bill.

A couple of quick questions, for clarity for me, regarding the overall function, the creation of potentially 6,000 jobs. Did I hear that correctly, Norm?

Mr. Miller: Yes.

Mr. Levac: Are those carry-over jobs, or are those construction and, ultimately, the end result?

Mr. Comish: Those are the permanent jobs that will be created as a result of the operation of the resort.

Mr. Levac: And those are important jobs.

Mr. Comish: Not the construction jobs. The construction jobs are, of course, shorter-term, but there will be significantly more than 6,000 full-year equivalent jobs created during the construction.

Mr. Levac: Correct. We'll be supporting the creation of 6,000 jobs in the riding. Great.

Mr. Comish: Yes.

Mr. Levac: Glad to hear that.

The second thing is with regards to the specialness or the uniqueness, as it's been described. Within the area, do you see any other potential destination resorts being contemplated, or is there a geographic area that tends to be taken care of by the creation of one to deal with the scope of the project you're talking about?

Mr. Comish: Certainly there's no real barrier to another destination resort, except that there are some practical barriers. One is that you need to find a parcel of land that is large enough to allow you to create a destination resort. As you may notice from this, we're talking about 1,400 acres of land here. We were just very fortunate in having a series of adjacent resorts that were all along the shoreline of Rosseau, started by Peyton House, which was burnt down, etc. There is a marina next door to it. Then there's Cleavelands House. There's Lakeview. A number of resorts were all adjacent, so it was very fortuitous that over a period of time Ken Fowler was able to acquire all of these contiguous properties and build the mass that he needed.

I think you're going to have to go a long way north before you find that kind of acreage. Then of course the problem is, how do you get people there? Because it's

going to be a fairly significant drive if you're going to Sudbury or wherever to find that kind of property.

Mr. Levac: Two more quick ones. Number one, how much do you think the annual fee will be for the golf course?

Mr. Comish: I don't play golf, but I think actually up until now it's been a public course. At some point there probably will be a private club as part of it, but we'll try to keep it as low as possible.

Mr. Miller: I'd like to comment, if I could. You should go in the spring, because they have some very good deals. You can play 18 holes of golf and dine in the restaurant. They have some real bargains on as they're trying to build business in the spring.

Mr. Levac: I'll work with you on that one.

Mr. Miller: Probably in the fall, too.

Mr. Levac: Congratulations on a great project, and all the best wishes to you.

Mr. Comish: Thank you very much.

The Chair: Are there any other questions from committee members? No? Are you ready, then, to move to the voting? That's great.

Mr. Sergio: Before they change their mind.

The Chair: Yes, before they change their mind.

Members, just for your information, I'm going to need unanimous consent to postpone consideration of sections 1 to 18, which would be the normal way that we do things, section by section as they appear in the bill. But the issue is that many of sections refer to schedules and forms that come later. So what we'd like to do, with your consent, is to start with the schedules and forms, and then move into the sections. Is that all right? That's great. Thank you very much.

So we're going to start with schedule 1. Shall schedule 1 carry? Carried.

Shall form 1 carry? Carried.

Shall form 2 carry? Carried.

Shall form 3 carry? Carried.

Shall form 4 carry? Carried.

Now we're back to the main body of the bill: section 1. Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall section 4 carry? Carried.

Did you want me to just skip down and ask if sections 5 through 18 are carried? Okay. Sections 5 through 18 are carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Great. Thank you very much.

Congratulations. That's business accomplished. Thank you again for coming. We appreciate the great vision you have for the project.

Mr. Comish: If I could make one final editorial comment, I want to compliment legislative counsel. The group of people you have in that department are absolutely superb at what they're doing. I've practised corpor-

ate commercial law in downtown Toronto for 35 years and like to think that I've dealt with a lot of very capable people in the legal profession. The people I've met within that group certainly fall within that category.

The Chair: Thank you very much. We'll make sure we pass that on. Sometimes we forget how valuable they are. We appreciate that.

REVIEW OF REGULATIONS REPORT

The Chair: Members, we are now going to move into the consideration of the draft report on regulations. Research has just provided an updated report. There is further information that was provided and can be included. Now I'm going to ask Andrew McNaught to walk us through the report.

Mr. Andrew McNaught: Good morning. I'm Andrew McNaught, the research officer for the committee. Today I am also counsel for the purposes of presenting the regulations report to the committee. I suppose this could be described as the committee's annual visit to the dentist, but bear with me.

I'm going to begin by just giving you a quick overview of the committee's role in reviewing regulations and then we'll go through the report. Susan, I think, has just distributed a second draft, because I received some further information late yesterday from the Democratic Renewal Secretariat and I've included that on page 9.

Regarding the role of the committee, the committee is required under the Regulations Act and the standing orders of the House to conduct a review of regulations made under Ontario statutes each year. The research lawyers of the legislative library—that's me—act as counsel to the committee for that purpose. The purpose of the regulations review is to determine whether regulations are being made in accordance with the nine guidelines set out in standing order 106(h), and that's included in appendix B of the report. As an example, guideline (iii) provides that, "Regulations should be expressed in precise and unambiguous language." The review procedure we've developed is as follows.

We'll read the regulations and identify potential violations of the committee's guidelines, and then we will write letters setting out our concerns to the various legal branches of the ministries that are responsible for those regulations. If we feel that a ministry's response to our letter does not adequately address our concerns, then we'll include a discussion of that regulation in the draft report. Once the committee has the draft report, it's up to the committee to decide whether a particular regulation will be mentioned in the final report and whether the committee will make any recommendations. Finally, the report is tabled in the Legislature.

You have before you the draft report for regulations made in 2005 and for the first 180 or so regulations made in 2006. I'll just go through that with you. On page 1 of the draft report, we include a brief description of the origins of the committee's role in the regulations review process as well as an overview of the terms of reference.

On page 2 and page 3, we've included some statistics on regulations made since 1991 up to 2006. Then, at the bottom of page 3 is the substance of the report. I just forewarn you that some of the issues raised here are very nitpicky, and you might even consider trivial, but that's the nature of the process, so bear with me.

1030

The Chair: Hence the dentist remark.

Mr. McNaught: Yes, that's right.

If you go to the top of page 4, we discuss two regulations made under the Conservation Authorities Act. The first regulation is O. Reg. 97/04, which is what you could call the model regulation that conservation authorities must follow when they make their own regulations.

In reviewing the 37 regulations that were made by conservation authorities in 2005, we identified three potential problems with the model regulation, which itself was made in 2004. Two of the issues we discussed are, I guess, minor drafting issues, and you'll see, over on page 5, that the Ministry of Natural Resources has agreed with our comments about them and has said that it will be making appropriate amendments.

The third issue we raise begins in the middle of page 4 and concerns sections 4 and 6 of O. Reg. 97/04. In a nutshell, we found that while a conservation authority must apply certain criteria when considering whether to grant permission for development in areas where development would otherwise be prohibited, they are not required to apply any criteria when considering whether to grant permission for certain non-development activities, such as altering an existing water channel. We raised this discrepancy with the ministry as a possible violation of the committee's precision-of-language guideline and you'll see the response over in the middle of page 5. Basically they say it's not feasible to prescribe criteria in connection with granting permission to alter a channel of water since there are just too many factors to consider.

Our position is that that's a reasonable explanation. You'll see that we've given you, on page 5, a suggested recommendation, which is that the committee accept the ministry's response and that it proceed with the amendments it has suggested it would make in connection with those two minor drafting issues that we raised.

The next regulation we discuss is towards the bottom of page 5, O. Reg. 158/06, which is also made under the Conservation Authorities Act. That was made by the Essex Region Conservation Authority. Section 9 of the regulation deals with the power of a conservation authority to extend permission to carry out development and non-development activities. We found that the regulation does not contain all of the requirements set out in the model regulation. Specifically, it does not specify under what circumstances an extension can be granted and the procedures for obtaining an extension. We raised this with the ministry as a possible violation of the committee's second guideline, which requires that there be authority to make the regulation.

Over on page 6 you'll see that the ministry agrees with our findings and has proposed to amend all regulations

made by conservation authorities accordingly. Again, we've provided a draft recommendation, which basically says that the committee accepts the ministry's response and recommends that the ministry proceed with appropriate amendments.

At the bottom of page 6 we discuss a regulation made under the Child and Family Services Act. That's O. Reg. 104. You'll see that subsection 50(3.1) of the regulation provides that when a child is being placed for adoption by an adoption agency, the parent cannot consent to the adoption until he or she has been informed of certain information. You'll see that clause (b), right at the bottom of page 6, provides that the parent must be advised of "significant changes that will result when specific provisions of" the act become law. So in the context of the committee's precision-of-language guideline, we asked the Ministry of Community and Social Services to explain what constitutes "significant changes" and "specific provisions."

Over on page 7, the ministry explains that these are references to the provisions of the Adoption Information Disclosure Act, 2005, and also that the adoption agencies have been provided with an information sheet that is to be given to parents before they consent to an adoption. On page 7, we've set out three possible options for the committee. The last one is the possible recommendation that the regulation be amended to include a reference to the information sheet that's been distributed to adoption agencies.

At the bottom of page 7 is the last regulation that we've flagged, which is O. Reg. 82/06, made under the Election Act. This regulation sets out procedures to be followed by the Citizens' Assembly on Electoral Reform. We've identified three provisions of this regulation, again in connection with the precision-of-language guideline. These provisions deal with the right of a person with a disability to have access to meetings of the citizens' assembly and the right to have interpretation services and the right to have access to publications of the assembly in an alternative format. Subsection 8(4), discussed at the top of page 8, provides that a disabled person who attends a meeting of the citizens' assembly is entitled to have the meeting conducted in a way that is accessible to him or her. So we asked the Democratic Renewal Secretariat whether this entitlement arises simply on request or if the intention was that the request must be made with reasonable notice. We raised the same issue under subsection 8(5) in connection with interpretation services.

The secretariat's response is summarized on page 9. You'll see that regarding the right to have access to a meeting and the right to interpretation services, the secretariat says that the intent of the regulation is to have accessible meetings and interpretation services available on request; that is, reasonable notice is not required.

The third issue we raised under this regulation is discussed at the bottom of page 8, and that's subsection 8(7) of the regulation, which provides a right to the publications of the assembly. We asked the secretariat to

explain the meaning of the term "publications," because it's not defined in the regulation. We asked about the right to see publications in an alternative format.

Again, over on page 9, you'll see that the secretariat says that the term "publications" includes everything published by the assembly, including documents in any form. However, it says that any request for publication in an alternative format will be "reasonably accommodated," which appears to be slightly different from the wording of the regulation, which says "on request."

Towards the bottom of page 9, we've set out a couple of options for the committee. One is to simply accept the response of the secretariat without any further comment. The other is to accept the response but also recommend that the regulation be clarified "to explicitly state that a reference to 'on request' in these provisions does not imply that 'reasonable notice' be given." Secondly, we suggested that they further define the term "publications."

1040

Mr. Gilles Bisson (Timmins-James Bay): I would simply—

The Chair: We're going to go back and do each section at a time. We're just going to get through the report and then we're going to go back. Thank you.

Mr. McNaught: I'm almost done. I'm just going to mention that we conclude the report, starting on the bottom of page 9, with a brief discussion of Bill 14, which is the Access to Justice Act, 2006. That act, of course, includes a schedule that will enact the Legislation Act, 2006, and that's going to replace the Regulations Act in 2007. We've included a brief note on how the new legislation will affect filing of regulations and publication of regulations.

That's the overview; now maybe you want to discuss the suggested recommendations on the individual regulations.

The Chair: If we can go back, then, the first recommendation came on page 5, which was the accepting of the minister's response on 97/04 and 158/06, conservation authorities.

Mr. Martiniuk: I have a general question before you get into specifics. The standing orders provide guidelines in 106(h), and I'm just wondering if regulations, for instance, let them impose a penalty such as in sub (vi), "fine ... or other penalty." Is it permissible to argue that the regulation is ultra vires in a court because it does not comply with the guidelines set forth in the standing orders, which is in fact legislation?

Mr. McNaught: That's a very good question. I'm not aware of any court cases on that.

Mr. Martiniuk: The reason I was asking is because I don't know whether it dealt with the same thing, but the courts some time ago held that probate fees, which were set by regulation, were in fact a tax, which is also mentioned in 106, and therefore were ultra vires, in effect. I don't know whether it was ultra vires the probate fees statute, or whether it was ultra vires the standing order.

Mr. McNaught: In fact, we discussed that very case about five reports ago. I wish I had it here with me to show you, but I can undertake to provide you with a discussion of that case. I don't remember whether they specifically raised the standing orders on that. I don't think so. I think it was more of a statutory argument, but—

Mr. Martiniuk: Rather than give me that, then, can you raise the standing orders?

Mr. McNaught: I believe you can, but as I say, I'm not aware of any cases off the top of my head about that.

Mr. Martiniuk: Thank you.

The Chair: Any other general questions? We go back then to the first recommendation, which came on page 5.

Mr. Levac: I move the adoption of recommendation number 1 on page 5: "The committee accepts the ministry's response and recommends that it proceed with appropriate amendments."

The Chair: Is there a seconder for that? Do I need seconds for all these? I don't think I do. Okay. All right, that's great. Is there any discussion on the motion? All right, that's great.

I guess I'm just in your hands. Do you want me to go through the voting on each of these or do you want to wait till the end and do it as a whole if there are any amendments? All right, we won't vote on them; we'll just do it at the end. Thank you.

So then the next recommendation comes on page 6. Again, it's a recommendation to accept the response of the ministry in response to the report. Any comments on that one?

Mr. Bisson: One second.

Mr. Levac: Page 6, Gilles.

The Chair: This is where the ministry has agreed to the amendments suggested by research to tighten up the language.

Mr. Bisson: Okay, that's fine.

The Chair: Okay, then, thank you.

We're now on to page 7. There's a series of options that Mr. McNaught has put to committee in the report.

Mr. Levac: I think that in terms of the committee, we should look for clarity wherever we can. I don't have any problems with asking for number 3 to be accomplished, which was, "Although the ministry's explanation clarifies (to the committee) ..." which I think is being said, that as a review we understand what you're saying, but the meaning of the wording—so that the rest of number 3 be adopted.

The Chair: Any further comments on that? No? Okay, thank you, Mr. Levac.

The next committee options come on page 9, in reference to the Democratic Renewal Secretariat. Any comments from committee members on where the committee wants to go with these options?

Mr. McNaught: I omitted, of course, an option that's available in all these cases, which is to not report the regulation at all. I'm sure I didn't need to tell you that.

The Chair: So I'm in your hands in terms of the committee. I haven't gotten any guidance here. Do we

accept the response of the Democratic Renewal Secretariat or do we recommend amendments to the regulation?

Mr. Sergio: Are you on page 9?

The Chair: Page 9, yes.

Mr. Sergio: The second bullet, I believe.

The Chair: Yes. The second bullet, you're suggesting, Mr. Sergio, is the way to go?

Mr. Sergio: Yes.

Mr. Bisson: Hang on a second. So the regulation as read is what is on 8, right, Andrew?

Mr. McNaught: Yes.

Mr. Bisson: Both in regard to disabilities and French-language translation?

Mr. McNaught: Yes.

Mr. Bisson: "On request"—I'm not so sure. It's a bit of a moot point; we've already done seven of these things. You show up at the committee and the person wants to participate in the process. They go there and they have some sort of disability that prevents them from getting access. They have to make a request, but the meeting is already happening. It doesn't make any sense.

Mr. Sergio: No, I don't think it says that.

Mr. Bisson: Can you explain?

Mr. McNaught: The point we were making was, is it implied in this that there should be some sort of reasonable notice? Can you show up five minutes before a meeting and ask that everything be altered to accommodate you? It may not be reasonable.

Mr. Bisson: It should be done ahead of time. I assume all of us, when we do public meetings in our ridings, make sure that they're accessible. You don't go and have a meeting somewhere where you know somebody can't get in and can't participate because of a disability. We always make sure it's accessible. You need to make sure that the regulation is not upon request on showing up at a meeting. It should be when they're organizing these meetings that in fact they are accessible. That's my point. The regulation, as I read it, would not automatically presume that it's going to be accessible, right? So why would we, as a committee, allow that?

The Chair: Mr. Sergio?

Mr. Sergio: With respect to publications, I know what the member is saying, but I thought we would have some flexibility with respect to the term "publications," since just accepting the report does not specify the term "publications." That is why I was suggesting number 2.

Mr. Bisson: But this is not just about publications, am I correct?

Mr. McNaught: No, it's—

The Chair: It's both. Each bullet refers to the different type of situation. The first bullet is accessibility, the second bullet is publications.

Mr. McNaught: The first bullet refers to the issue of what "on request" means.

The Chair: Reasonable notice for accessibility. Right.

Mr. Levac: If I can, they would have already known that the meeting was taking place, and in between the time of their knowledge of the meeting, they would have made the request because they have a disability and

they're requesting—I think I'm reading what the Democratic Renewal Secretariat is saying:

"The intent of this provision is that a person with a disability who is entitled to be at the meeting (whether as a member of the public or as a member of the citizens' assembly) be reasonably accommodated even if he or she makes the request just prior to the commencement of the meeting."

What we're saying is, accept the response of the secretariat and the recommendation that the regulation be amended to explicitly state that a reference to "on request" in these provisions does not imply that reasonable notice be given. So it doesn't imply that reasonable notice be given, that they do respond to the request for modification if it's necessary. I think what you're saying, if I can hear, is that we should even be getting in front of that and automatically planning for it. Is that what I'm hearing, Gilles?

Mr. Bisson: That's exactly what I'm saying.

Mr. Levac: But that's not covered in the regulation.

The Chair: That's right.

Mr. McNaught: Yes, that's sort of beyond the scope of—

Mr. Levac: That's beyond the scope of the regulation, if that's what I'm hearing.

Mr. McNaught: You're suggesting drafting a new provision to cover a certain aspect of the committee's proceedings.

Mr. Bisson: That's what I'm basically saying, yes.

1050

Mr. Sergio: In order to perhaps clarify it a bit more, if you look at the top of page 9, the first bullet, which is 8(4), the third line, after the bracket after "citizens' assembly," says, "be reasonably accommodated even if he or she makes the request just prior to the commencement of the meeting." There is a request being made, so we are acting on it.

Mr. Bisson: But how do you do that?

Mr. Levac: You have to change the regulation, right?

Mr. Bisson: That's what I'm saying. I don't know how you do that.

Mr. Sergio: But this is based on a request. It's right in there. It's in the first bullet.

Mr. Bisson: I think Dave understands what I'm getting at.

Mr. Levac: Can I refer this to Andrew? If I'm not mistaken, what I'm hearing Gilles say is beyond the scope of the present creation or structure of the regulation. We're cleaning up the regulation as it is. What we would need to do, if I'm getting this right, is get in front of that by creating another regulation that says what Gilles wants to have happen. We're not privy to create regulations here. Are you okay with that, Gilles?

Mr. Bisson: I understand what you're—

Mr. Levac: I hear your point, and I'm just trying to—
Interjection.

Mr. Bisson: Andrew, you were going to add something. Please participate.

Mr. McNaught: I don't know—it slipped my mind now. We're dealing with the wording before us. We have to apply the guidelines, and the guidelines don't talk about making recommendations to draft provisions to deal with other aspects of this issue.

Mr. Bisson: Part of the problem is that I walked in halfway into this thing, so I'm going to ask the question this way. I'm looking at page 8. It reads, "A person with a disability who is entitled to attend a meeting is entitled, on request, to have the meeting conducted so as to be accessible to him or her." As I read that, it means to say that the scenario could be—

Interjection.

Mr. Bisson: Hang on. Let me just finish, so that you understand what I'm saying and make sure that I'm on the same ground. As I understand, what that regulation means is that the citizens' assembly might have organized a meeting where, for whatever oversight, they're not accessible; there's no wheelchair accessibility. Let's make it really simple. A person finds out from their neighbour that this meeting is happening tonight, arranges the Wheel-Trans, gets all the way over there and finds out it's up on the second floor or there's some barrier to being able to attend. That regulation doesn't talk about notice, as I read it; it just says, "When you show up, you have the right to demand that"—so what do they do? They're going to cancel the meeting?

Mr. McNaught: That's the issue we raised: Should there be reasonable notice implied in that?

The Chair: And if you look in response to that issue that was raised, the bullets on page 9—

Mr. Bisson: Where's the response?

Mr. McNaught: The top of page 9.

Mr. Bisson: "The Democratic Renewal Secretariat has acknowledged receipt of our correspondence on this matter but has yet to respond. Therefore, the committee could

"—keep the draft text in the report as an 'observation'"—

The Chair: No, you must have the old report.

Mr. McNaught: There's a problem there. Sorry; there's a second draft.

Mr. Bisson: Okay. That would help me.

The Chair: While this is being handed out—so the issue is raised by research and by legislative counsel saying that there's a problem with this regulation; it's not clear.

So then the ministry comes back with what their explanation is of why the regulation is written the way it is. Our committee has to decide: How do we deal with that? I think what Mr. Sergio is saying is that it's not good enough to just accept the explanation, but in fact we have to go further than that by asking the ministry to amend the regulation, as the suggestion is written here on page 9 by leg. counsel.

So that's kind of where we are now, and that's I think what Mr. Sergio is recommending. I think what Mr. McNaught is saying is that, notwithstanding what you're saying and what Mr. Levac is perhaps agreeing with, we

can't rewrite the regulation, but what we can do is ask the ministry to clarify so that people are not misled—I shouldn't say "misled," maybe; are not misunderstanding—what the intent was. Does that explain things for people?

Interjection.

The Chair: Okay.

Mr. McNaught: I just point out that the alternative to the recommendation that you amend the regulation to explicitly state that it does not imply reasonable notice is to say that it does imply, or to provide—

Mr. Mauro: Exactly right. Thank you for saying that. That's the issue with what's recommended here before us. It's contrary completely to what's trying to be accomplished here. Exactly. I'm not sure why that's there as a recommendation, is my question to you. It contradicts what's trying to be accomplished.

Mr. Bisson: Because I think we're all on the same page, right?

Mr. Mauro: Yes, absolutely. Yes. My question back to you is, why is that there? Because you're saying, "does not imply that 'reasonable notice'" has to be given.

Mr. McNaught: That's the secretariat's position: that it is not implied; that it is intended to create this higher standard where notice is not required.

Mr. Mauro: But in their explanation at the top of page 9, they state that they feel like they've met the more demanding standard already.

Mr. McNaught: Yes, that the regulation, as written, is what was intended.

Mr. Mauro: Yes, that's their interpretation, that they would have addressed the concern that Gilles and others are raising. So I guess my question would be: Do you agree with their interpretation?

Mr. Sergio: But the recommendation is different than what is being suggested, so I think we have to look at the recommendation here.

Mr. McNaught: I think maybe it creates some unreasonable expectations.

Mr. Mauro: If we all knew that notice was being given to people, then we could be assured that they would have an opportunity to be accommodated. Correct? So if we're satisfied that notice is being given with the way the regulation is drafted, then I think everybody's concerns are accommodated. So if notice is being given, they have an opportunity to—

Mr. McNaught: Sorry, notice, I think, in this context, means that the person making the request to be accommodated has to give reasonable notice to the people conducting the meeting that they want the meeting made accessible to them.

Mr. Bisson: The problem is that it's an unworkable regulation because the notice may not have been given to the person until six hours before the meeting, at which point you couldn't accommodate.

Mr. McNaught: You're saying—you could clarify it if the organizer of the meeting gave advance notice that the meeting is going to be held.

Mr. Mauro: Yes.

Mr. Sergio: To me it's crystal clear. I don't want to get hung up on this, but if we look at the committee's options and we look at the first bullet, second bullet and then first small bullet where it says, "to explicitly state that a reference to 'on request' in these provisions does not imply that 'reasonable notice,'" which means it has to be done. Reasonable notice doesn't even apply. It's got to be done. They've got to do it, period. That's the way I read the recommendation from the committee here.

Mr. McNaught: That's the secretariat's position.

Mr. Sergio: Yes, and it's exactly, in a way, what Gilles is saying. How do we know that it's going to be done? It's got to be done. They've got to do it. It's got to be done. It's not only implied, it's got to be done.

Mr. Levac: If I can add to that, I want to follow Mario's logic by simply restating, "be reasonably accommodated even if he or she makes the request just prior to the commencement of the meeting." I think that reinforces what Mario is saying, that in actual fact, the words "reasonable notice" are not the issue here. What the ministry is saying, or the secretariat is saying—"on request" is a higher standard of reasonable notice. Therefore, taking "reasonable notice" out as not implying reasonable notice, forget that. "On request" is even closer to what Gilles is talking about, without changing "regulations," so that if somebody knows that there's a meeting coming up within hours, they can call and say, "I'm on my wheeltran, I'm on my way, try to get me accommodated." I understand this to say that every single effort will be made to ensure that the person with that disability gets to that meeting, even if it means carrying them. I think that's the intent. Further to Mario's point again, it raises the bar. I think that's what he's saying. It raises the bar, it takes "reasonable notice" out of the picture. That's why accepting that recommendation brings us a step closer to having it absolutely accessible.

The Chair: Okay. Thank you. So, then, the committee thus far is suggesting that the best option would be to take bullet number 2 under "committee options," which is to accept the response but ask that the regulation be amended for clarification in both of those bullets. Thank you very much. That was a good discussion.

Mr. Bisson: Yes, and that would be similar to the other regulations for French-language services.

The Chair: Yes, it carries all accommodations.

Mr. Bisson: Because I know it's already an issue. I spoke to the person who actually was drawn out of my riding to be on the citizens' assembly. She speaks English, but if she's trying to explain herself, she really would have a heck of an easier time doing it in French rather than in English.

The Chair: Absolutely.

Interjection.

The Chair: That's great. Thank you very much.

Mr. Levac: Do you need acceptance?

The Chair: Yes. I'm just going to walk you through the required motions now.

Shall the report, as amended, be adopted?

Mr. Bisson: There's still the one—the last one that I said, "So moved." Remember, a little while ago? The one

in regard to children's services—not children's services but adoption. Not adoption, but—

The Chair: Page 7?

Mr. Sergio: Page 6.

Mr. Bisson: That was at the beginning? Let me just see what that says. Page 6?

The Chair: “Accepts the ministry's response and recommends that it proceed with appropriate amendments.” That's what the committee decided to do.

Mr. Bisson: “The committee accepts the ministry's response—”

The Chair: On page 7.

Mr. Bisson: I'm looking in the wrong place.

The Chair: Child and family services, Adoption Information Disclosure Act.

Mr. Bisson: Yes, that's the one.

The Chair: So what the committee recommends, or what the committee has discussed is actually making the following comment on the recommendation, which is the third bullet point.

Mr. Bisson: “Although the ministry explanation clarifies the committee response, it does not address the possibility”—okay, I got you.

The Chair: Okay. So shall the report, as amended—we've just made those amendments—be adopted? Agreed.

Upon receipt of the printed report, shall I present the report to the House and move its adoption? Agreed.

All right. There's no dissenting opinion, so that's the end of that.

Thank you very much, Mr. McNaught. That was an excellent discussion. Thank you, committee members.

The committee adjourned at 1101.

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**Standing committee on
regulations and private bills**

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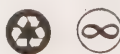
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STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLSCOMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ

Wednesday 6 December 2006

Mercredi 6 décembre 2006

The committee met at 1002 in the Hamilton Convention Centre, Hamilton, Ontario.

ELECTION OF VICE-CHAIR

The Chair (Ms. Andrea Horwath): Good morning, everyone. I'm going to call the meeting of the standing committee on regulations and private bills to order and welcome everyone. We're here today to continue the public hearings on Bill 124, An Act to provide for fair registration practices in Ontario's regulated professions.

However, the committee first needs to do a little bit of our own business, which is the election of a new Vice-Chair. I will now ask for nominations.

Mr. Khalil Ramal (London-Fanshawe): I nominate Jeff Leal for Vice-Chair.

The Chair: Thank you, Mr. Ramal. Any other nominations?

Mr. Frank Klees (Oak Ridges): I would nominate Mr. Bob Delaney.

The Chair: Thank you, Mr. Klees. Do you accept, Mr. Delaney?

Mr. Bob Delaney (Mississauga West): I respectfully decline and thank my nominator, however.

The Chair: Okay. Mr. Leal, do you accept the nomination?

Mr. Jeff Leal (Peterborough): Ready to go.

The Chair: Okay, that's excellent. Then with no further nominations, it appears that we have a new Vice-Chair. Congratulations, Mr. Leal.

Mr. Klees: How much additional pay do you get now for this?

Mr. Leal: I'll do it for free.

The Chair: You would do it for free. That's a good sentiment.

Mr. Delaney: Double what a committee member gets.

Mr. Mario Sergio (York West): That's why he paid for my breakfast.

The Chair: Very good.

FAIR ACCESS TO REGULATED
PROFESSIONS ACT, 2006LOI DE 2006 SUR L'ACCÈS ÉQUITABLE
AUX PROFESSIONS RÉGLEMENTÉES

Consideration of Bill 124, An Act to provide for fair registration practices in Ontario's regulated professions /
Projet de loi 124, Loi prévoyant des pratiques d'inscription équitables dans les professions réglementées de l'Ontario.

SETTLEMENT AND INTEGRATION
SERVICES ORGANIZATION

The Chair: We're actually going to begin the process of hearing from our witnesses today. I'll call the first organization forward, which is the Settlement and Integration Services Organization, represented by Morteza Jafarpour and Aurelia Tokaci. If you can come to the end of the table, I'll explain the process, which is that you have 10 minutes for your presentation. If you leave some time at the end, members of committee will be able to ask questions. If you don't leave any time, unfortunately, we won't have that opportunity. I'll let you know when you have about a minute left in your presentation. Please introduce yourselves for the record and begin your presentation.

Mr. Morteza Jafarpour: Good morning. I am Morteza Jafarpour. I am the executive director of the Settlement and Integration Services Organization, known as SISO.

Ms. Aurelia Tokaci: Good morning. I'm Aurelia Tokaci. I am the manager of the employment services at SISO.

Mr. Jafarpour: Thank you very much for giving us an opportunity to talk about this important bill. As I mentioned earlier, my name is Morteza Jafarpour. SISO is a settlement agency in the Hamilton area. We provide a variety of services to facilitate settlement and integration of newcomers.

The city of Hamilton receives around 5,000-plus immigrants and refugees per year and the majority of them are internationally trained professionals. Through the caseload we've had, through the interaction we've had with the newcomers—and we have strong employment services—we have seen the stories about the barriers

faced by internationally trained professionals and other immigrants accessing the labour market.

Our position and the information we provide today are based on these 14 years of experience in working directly with immigrants and refugees. It is for this reason that SISO has received the news about Bill 124 with hope and confidence that this would be but the first step in a long and complicated system change that needs to happen in the licensing process.

SISO considers that Bill 124 is one of the most significant pieces of legislation for Ontario's immigrants and refugees. It is our understanding that Bill 124 promises, in its spirit and principle, to advance equitable access to licensing and registration for the regulated professions in this province.

We see and hear every day the sad and painful stories of highly skilled immigrants who cannot access employment in their field and related to their skills, education and experience. We see and hear the barriers and challenges that employers are facing and we hear and see challenges faced by regulatory bodies. At the end of the day, the picture shows that it is not the immigrant who fails to integrate and access meaningful employment, but it is the system that fails to support meaningful integration. The system fails to create the conditions for meaningful integration of newcomers.

Although newcomers are accepted through the immigration system based on the skills and experience they bring, many are struggling to work in their occupation. The Conference Board of Canada estimates that failure to recognize the skills and credentials of newcomers costs our economy over \$5 billion per year.

Non-recognition of the education and experience brought by newcomers is the single most important factor contributing to the increased rate of underemployment and poverty among immigrants. I would like to bring to your attention that in Hamilton, 52% of newcomers live below the poverty line, and that's directly employment-related, considering that our own stats show that over 70% of the clients accessing SISO services have a post-secondary education. Some of these unemployed and underemployed immigrants are well qualified to work in a regulated profession and some are even passing Canadian exams and getting their licence or registration but are denied internship or employment.

Internationally trained individuals are not asking that regulatory bodies ease or lower their standards. They understand that regulatory bodies have an obligation to maintain standards that protect the public. What they do want is fair, equitable entry criteria into their profession.

Upon analysis of the proposed Bill 124, we are of the opinion that this bill respects the principle of self-regulation while showing strong leadership and asking that the occupational regulatory bodies are held accountable to standards of practice that are transparent, objective, impartial and fair. We believe that implementation of Bill 124 will help everybody understand it is in the best interest of the public that regulators ensure that all licensed individuals are competent, while they also create

conditions for all competent individuals to become licensed.

The principles of fairness and equity are paramount to all SISO's activities. While analyzing Bill 124, we have found that this legislation creates the foundation to ensure that the framework in which occupational registration processes operate is one that is based on equity, transparency and accountability, while respecting the independence and integrity of regulatory bodies.

1010

We believe that Bill 124, if properly implemented, will address the issue of fairness and equity related to licensing and registration. It is for this reason and because of that impact on the livelihood of internationally trained individuals that we believe the bill should receive full support and not be delayed. However, we would like to bring to your attention that Bill 124 will address only half of the equation. Having a licence does not guarantee employment. There is much to be done outside and in support of this bill to ensure that equity and fairness are applied in the process of recruitment and hiring and that artificial barriers such as the myth of Canadian experience are removed.

We have heard a number of perspectives and critics brought in relation to this bill. Ultimately, while continuous improvement is something that we all need to strive for, it is also true that we need to start somewhere. Bill 124 is bold legislation as it puts our society on the path of creating clear accountabilities and standards.

Over the past 13 years, SISO has worked in partnership with all other stakeholders to create conditions for a system change. We see change happening through Bill 124. We believe that the bill represents one of the boldest attempts by a provincial government to address inequities that confront newcomers. We are concerned that delays in approving this bill compromise opportunities for internationally trained professionals. SISO would rather suggest that Bill 124 receive final reading during this session of Parliament and that the implementation phase be based on full and broad consultations with all stakeholders.

In closing, we consider that, if properly implemented, this legislation sets a new standard of accountability that will impact our system, individuals and our economy. Last but not least, we see that Bill 124 sets a new standard of accountability in the area of human rights, as it sets out to create an equity framework that protects and promotes the human rights of internationally educated professionals. It ultimately shows what Canada stands for. We urge all parties to address the issue of occupational licensing and to support Bill 124, for the benefit of all Ontarians.

Thank you so much for giving us this opportunity to talk about this bill.

The Chair: Thank you very much for your presentation. Unfortunately, you haven't left very much time for any questions, so we're just going to have to say thank you for joining us this morning. We appreciate your comments.

MAHMOUD NASER

The Chair: Our next presenter is Mahmoud Naser. Please join us, Mahmoud. As you know, you have 10 minutes for your presentation. If you leave some time at the end, people will be able to ask you some questions. Please begin with introducing yourself. Welcome.

Mr. Mahmoud Naser: Thank you. Good morning. I would like to start by thanking the committee for coming to Hamilton to hear us. Also, I would like to thank the audience for their participation.

My name is Mahmoud Naser. My address is 191 Candlewood Drive, Unit 17, Stoney Creek. My family and I first landed in Canada in February 2005. During my presentation, I will be talking about my qualifications before and after coming to Canada, how I was able to succeed in obtaining Canadian qualifications and finally, what I think is the best method of integrating newcomers like myself into the Canadian workforce.

I graduated from university with a bachelor's degree in science, in aviation and business administration. Immediately after that, I joined the Jordanian air force. After 18 years, I retired with the rank of major. My last position was a senior transport pilot with more than 3,000 hours of flight time. During my career, I was qualified as a staff officer and a flight safety officer. In January 2006, I started an accreditation program with the assistance of Ontario Works, city of Hamilton. In October 2006, after passing eight exams, I obtained a Canadian airline transport pilot licence, which is the highest pilot job requirement in Canada and everywhere else. I would not have been able to succeed if it wasn't for the guidance and training I received from my flight instructor and mentor, who was very experienced as an aviator.

In my opinion, which I would really like to share with you, because I'm in this stage right now, the internship program is an excellent path for newcomers like myself who have passed the stage of obtaining licences and are willing to take entry-level positions in their field of expertise. It allows the employers to test the workers and allows us to gain Canadian experience.

Furthermore, I hope Bill 124 will stress more the importance of providing internship positions at all three levels of government and in the private sector.

Again, thank you all, and I'll be glad to answer any questions.

The Chair: Thank you very much. I was asked by one of the committee members, Mr. Naser, if you were representing a group or if you're representing your own opinions.

Mr. Naser: Myself.

The Chair: Okay; that's great.

You've left a couple of minutes for questions, so I'm going to start with the Progressive Conservative caucus.

Mr. Klees: Thank you, Mr. Naser, for coming forward. I think you're really going to the heart of the issue, and that is, how does one transition into permanent employment? It's one thing to get the qualification; it's one thing to get the equivalency rating and so on; the real

challenge, as I think we all probably agree, is that you can have all of that, but then there's the issue, as the previous presenter referred to, of the so-called Canadian experience that an employer wants before they'll hire you. So the question is, how do you get the Canadian experience? The internship program is certainly one.

One of the things that we've been really challenging the government on is—clearly we're going to support Bill 124. We have some amendments that we want to bring forward and we're hopeful the government will accept, but the real message to the government is: Move on, move beyond this. What is it that the government is going to do to ensure that there are practical programs in place so that people like you can connect and access those internship programs, the mentoring programs that are there?

Let me ask you this: You spoke very highly about your flight trainer who helped you get through the qualification. Are you finding the same kind of helpfulness out there now in terms of this next step or is this where you find some challenges?

Mr. Naser: Actually, my mentor was a private citizen who did not have any kind of job related to—or benefited from assisting me in doing this. Actually, he volunteered his time. He even volunteered his airplane. He took me for flights for free.

Mr. Klees: How did you find that person?

Mr. Naser: I think it was just my luck. I went through the accreditation program. I went to the airport. When you go to the airport, you find pilots and trainers, and I ran into him by chance. But he was part of the school I went to or the—

Mr. Klees: The training program.

Mr. Naser: The training program, yes.

Mr. Klees: So you're now looking for permanent employment?

Mr. Naser: That's right.

Mr. Klees: And what is your experience now in terms of making that transition?

Mr. Naser: I haven't had too much experience in that, because I just finished in late October. I've been trying to write or find out where possible positions would be. I applied almost everywhere through the Internet. But I understand the problem like you explained. We need to break into the culture of Canada. As you know, culture does not necessarily mean from one country to another one. Probably if you go to British Columbia and try to be a member of Parliament there, you're going to have a hard time breaking into that culture.

Mr. Klees: I'd never get elected in British Columbia.

The Chair: Mr. Klees, we have to move on to Mr. Tabuns for a couple of questions.

Mr. Peter Tabuns (Toronto-Danforth): Mr. Naser, thanks for taking the time this morning to come down and speak to us. Could you talk a bit about the experience of others who haven't been able to get access to internship programs or work experience that would allow them to break into the market?

1020

Mr. Naser: I don't know anybody specifically, because in my case I was very lucky. I just moved in. By the time we settled down with the family, I started a program. I've been very busy going through the program, because it's not easy going back to the basics and back to studying six hours and eight hours a day. So I didn't have much experience, but I know many people are not working in their field of expertise. I know they would like to. I know they would take entry-level jobs. I am prepared to do that, but I know it's not easy. I even tried applying to the internship program on the Internet. As you know, they accepted 3,500 people into the program but actually just 200 people got positions. So I know it's a big problem there. I don't know much information about other people, but I know about myself.

Mr. Tabuns: It's unfortunate. This bill actually doesn't deal with internships at all—

Mr. Naser: Exactly.

Mr. Tabuns: —and that's a big part of the whole problem that faces new Canadians. It isn't being addressed.

Mr. Naser: The bill touches on it maybe with the access centre, but it doesn't say too much about it. I really would hope that maybe the bill would give it more importance, because it is important.

Mr. Tabuns: It's a huge part of the puzzle; there's no question. This bill has more to do with the registration process and possibly helping people go through that registration process. But it doesn't touch on internships, so it doesn't touch on a very big part of the problem that all new Canadians face. But I appreciate your coming forward and talking to us about your experience and what you see as the needs that new Canadians face in this country.

The Chair: From the government side, Mr. Ramal.

Mr. Ramal: Thank you, Mahmoud, for coming and presenting to us and telling us about your experience. Bill 124 talks about breaking the barriers and allowing you to pass all these hurdles and get a licence, which you already did. You already did this stuff. But I'm wondering, what do you think about the bill itself? Will it help other people?

Mr. Naser: I think it does. I consider myself lucky, because my field of expertise is aviation and it has already been regulated heavily by being part of the International Civil Aviation Organization, which is part of the UN. So for me, it wasn't really a problem, because the aviation field has already been regulated and you know exactly what to do if you come from Jordan to here, as far as licensing is concerned. But for other people, I think it is really important to know exactly what you need to do and how to do it, and to make a law that makes people do things—

Mr. Ramal: According to law.

Mr. Naser: As required by the law, not just by their own initiatives.

The Chair: A very quick follow-up, because we're going to run out of time.

Mr. Leal: Mr. Naser, thanks very much for coming. Did you talk to the officials in the Canadian embassy in Jordan before you came to Canada? Because one of the things I think we need to do is to lay groundwork in our embassies throughout the world, have a provincial presence and, as I said, try to lay groundwork for new Canadians coming. I think that might be the way to facilitate moving into the professions and other areas and making better use of our embassies as a vehicle to really work with potential new Canadians coming to Ontario, particularly in Canada, from a larger perspective.

Mr. Naser: I haven't talked to anybody there but I did my research before I came. I know there is a need for pilots in Canada. We know that there are pilots available who are newcomers like myself. The problem is to get connected, I think, mostly because we don't understand completely the importance of missing out on this resource.

Mr. Leal: That's why I asked the question. I think we could get better connections out of our embassies throughout the world.

The Chair: I'm sorry, we're actually running out of time. Thank you very much, Mr. Naser, for coming in. We appreciate your comments.

COMMUNITY MICROSKILLS DEVELOPMENT CENTRE

The Chair: Next on the agenda we have the Community MicroSkills Development Centre. Is there someone here from that organization? Welcome. Can you please join us at the table? On our list, we have Kay Blair. Are you Kay Blair?

Ms. Kay Blair: Yes, I am.

The Chair: Okay. Welcome. The format is that you have 10 minutes for your presentation. If you leave time during that time frame, members of the committee can ask you some questions. So please introduce yourself for the record and begin.

Ms. Blair: Great. I want to say thank you for the opportunity to present here and to share with you our support for Bill 124 and its enormous capacity that highlights the coexistence of commerce and social justice.

My name is Kay Blair, and I am the executive director of Community MicroSkills Development Centre in north Etobicoke. The organization is commonly known as MicroSkills. MicroSkills is a not-for-profit agency that has been serving newcomers to Canada and low-income women since 1984. To date, we've provided employment services, English-language training, information technology, and self-employment training for thousands of marginalized individuals throughout the GTA.

As an organization whose primary service is facilitating access to employment for immigrants, we are aware that the employment difficulties that immigrants have experienced have intensified over time. Consequently, we believe changes are desperately needed, because today, 60% of Canada's immigrants do not work in their chosen field. We're very familiar with the challenges faced by

highly trained newcomers, highly skilled individuals who believed the advertising and invested their futures in opportunities they believed would be theirs upon arrival in Canada—opportunities for themselves and their children—only to find a major disconnect between what they heard and what they actually experience.

Since we established our JobConnect services for newcomers, we have heard first-hand the stories of people who have come to Canada in the firm belief that this country needs—and it does—professionally trained individuals to maintain and grow its labour force. These people are highly skilled individuals in whom their countries have already made a heavy investment. Upon their arrival, however, these newcomers have often found that their skills, whether in engineering, medicine, accounting, the law, teaching, or social work—in fact, all regulated professions—have gone unrecognized, while they themselves work in subsistence fields as taxi drivers, delivery persons, or retail salespeople. We have witnessed their initial confidence, their patience, their struggle, their determination, their growing dismay, and, all too often, their eventual disillusionment with the entire process.

There's no question that the barriers to newcomer access are certainly many, but what we hear most frequently mentioned are the requirements for licensing and registration by those provincial bodies which regulate access to professions. As an agency, we have for many years been very optimistic about possible legislative changes that would facilitate newcomers' access to professional employment in their chosen fields. Certainly, we were never more hopeful than with the November 2005 release of the Thomson report, with its 25 recommendations for implementation of a fair registration practice.

I must say that the scope of the Thomson report is quite vast. We could not and we cannot expect that all its recommendations would be addressed in one single piece of legislation. At the same time, however, I would like to applaud the leadership of this government in taking this very significant first step on behalf of Ontario's internationally trained individuals in creating the framework for change that is captured in Bill 124. It articulates, I believe, a strong message that the government is serious and committed to improving the conditions that could possibly result in the elimination of systemic practices.

Let me share with you how we think Bill 124 does support internationally trained individuals.

First, it establishes the responsibility of regulated professions to "provide registration practices that are transparent, objective, impartial, and fair."

It defines the duties incumbent upon regulated professions as to the provision of information to applicants, the documentation of required qualifications, and the creation of processes for timely decisions, their justifications, and responses. More importantly, it provides for training of those entrusted with these responsibilities.

It also establishes the Office of the Fairness Commissioner to liaise between the regulated professions

and the government to ensure compliance with the legislation.

Of importance is that it creates an access centre for internationally trained individuals through which applicants or potential applicants for registration can receive current legislative, labour market, and professional standards information. Essentially, this centre could facilitate timely responses to applicants and eliminate the fragmented array of services newcomers currently must deal with. It also ensures that an audit process will track the compliance of regulated professions with the legislation, and establishes fines for possible non-compliance.

1030

I will say that in practical terms, what this means for Canada's internationally trained individuals is that people from other countries will be able to determine for themselves, prior to emigration, whether actual or potential labour market demands exist that will lead to employment opportunities.

Furthermore, newcomers will be able to ascertain the registration requirements of their professional occupations and will be able to work towards meeting those requirements even as they wait for their applications to be processed.

Newcomers will be entitled to a timely review of their applications and to appeal any decisions made on their behalf.

Once in Canada, internationally trained individuals will be able to access a system built on fair and just practices that will ensure their equitable treatment regardless of where they have received their training.

I will say that the legislation is not perfect, however; the thousands of immigrants with whom we have consulted have said it's not perfect. For example, although Bill 124 specifies the professions that are not covered by the legislation, it does not specify which professions are included, nor does it provide for an independent appeals process.

At the same time, however, Bill 124 represents an excellent start, a solid foundation upon which to go forward by creating an equitable environment for registration, whether by Canadian graduates or by the internationally trained, in the regulated professions. Essentially, this bill is about real equity.

I will share with you that, together with the newcomers loan program through the Maytree Foundation, the internship programs for newcomers, and the expanded bridge training programs, the Fair Access to Regulated Professions Act sends a clear message of this government's support for Ontario's internationally trained individuals. By enacting this legislation, you will be conveying a clear message to all internationally trained individuals and those who work on their behalf that Ontario as a province has heard their concerns, understands their position, and is willing not just to talk about the need for skills, but to take action that will give those skills a place in Ontario's present and future economy. The beneficiaries of your support will be our clients, their children, and the province as a whole as we move

forward to build a workforce that will meet the demands of the 21st century's globalized economy.

With the passage of Bill 124, I think we are one step closer to creating the kind of society in which newcomers are not just invited to Canada but are truly welcomed and are able to contribute productively.

Having said that, I believe that this bill should not be treated as a partisan piece of legislation but as a bill that speaks to the co-existence of commerce and justice. At this time, Ontario's internationally trained individuals need the support of all three political parties to ensure their fair access to all the opportunities Ontario offers. It is timely legislation. It is time for change.

Thank you for allowing me to speak here today.

The Chair: Thank you very much, Ms. Blair. Unfortunately, we don't have very much time for questions at all, so I just want to thank you very much for your presentation and for coming to Hamilton to speak to us this morning.

HAMILTON'S CENTRE FOR CIVIC INCLUSION

The Chair: Our next witness to committee is Hamilton's Centre for Civic Inclusion: Madina Wasuge. Please join us at the table. As you know, you have a 10-minute time frame for presentation. If you leave any time within that time frame, you can expect some questions from committee. Please introduce yourselves to the members of committee and begin your presentation. Welcome.

Ms. Madina Wasuge: My name is Madina Wasuge. I am the executive director of Hamilton's Centre for Civic Inclusion. Thank you very much, members of the committee, for this opportunity to convey to you on behalf of Hamilton's Centre for Civic Inclusion our position on Bill 124, the Fair Access to Regulated Professions Act.

Hamilton's Centre for Civic Inclusion is a community-based civic resource centre committed to working as a catalyst for anti-racist change across Hamilton. HCCI initiates and supports transformative processes that promote equity and create racism-free and inclusive environments in all areas of civic life.

Our mission is a community-based network mobilizing all Hamiltonians to create an inclusive city, free of racism and hate.

Our vision is a united community that respects diversity, practises equity, and speaks out against discrimination.

The goal is to create, in every sector and among youth, effective and sustainable ways of integrating all Hamiltonians into the civic life of the community, using their contributions to create a strong and vibrant city.

Employment, as you all know, is one of the main issues raised by Hamiltonians during the many consultations conducted by the centre and many other community organizations, specifically from internationally trained professionals. HCCI has developed these goals to work on the issues of employment to create models of inclusive, racism-free work environments that ensure equal

access to job opportunities, equitable treatment in the workplace and inclusive participation within the employment sector.

I will not retell the sad and painful stories of the many immigrants who are failing to integrate successfully into our economy, as those stories are well known to you. However, the result is that poverty rates among visible minorities and immigrants in Hamilton have grown. Newcomers account for about 52% of those below the poverty line in Hamilton, and this at a time when Ontario is getting the best and brightest cohort of immigrants in its history. Many of these unemployed and underemployed immigrants are well qualified to work in regulated professions and are passing Canadian entry exams, but are then denied internships, resident positions or other qualifying standards that effectively shut them out of the professions. We can say unequivocally that none of these thousands of internationally trained individuals who have come to Hamilton have said that regulatory bodies should ease or lower their standards. They understand that regulatory bodies have an obligation to maintain standards that protect the public. What they want are fair and equitable entry criteria into the profession that they were trained in for many, many years.

Bill 124 addresses this issue directly, and it is for this reason, and because of the impact on the livelihood of internationally trained individuals, that we believe the bill should be proclaimed into law without delay. The bill represents one of the boldest attempts by the provincial government to address inequities that confront newcomers. We are concerned that delays will continue to compromise opportunities for internationally trained individuals.

Unfortunately, there is a long history in this province of missed opportunities to address issues of importance to immigrants. As long ago as 1989, the Ministry of Citizenship, Culture and Recreation released the Task Force Report on Access to Trades and Professions, which was also meant to address this issue. There was much hope and anticipation that the important recommendations contained therein would be executed. It took 11 long years before even one of the recommendations was realized with the establishment of an academic credential assessment service. This cannot be allowed to happen again to this legislation. All three political parties need to declare their commitment to ensure that Bill 124 receives final reading during this session of Parliament.

With regard to proposed amendments to the bill, much has been made of the fact that Bill 124 does not contain some of the recommendations made by George M. Thomson in his report entitled Review of Appeal Processes from Registration Decisions in Ontario's Regulated Professions, released by the Ministry of Citizenship and Immigration last year. More specifically, it has been proposed that the bill incorporate the establishment of independent regulatory appeals tribunals and a fair registration practices code. What has been ignored by critics is that Bill 124 replaced these recommen-

dations with a Fairness Commissioner and a set of fair practices and principles to achieve the same results.

The fair practices principles are outlined in Bill 124, part II, as "registration practices that are transparent, objective, impartial and fair." They are further specified in part III, where a regulated profession is required to provide information about its registration practices, where said information is to be provided in a timely fashion and where the regulated profession is to specify any related fees.

Section 7 goes on to require regulated professions to ensure that decisions are made within a reasonable time. Time is everything in a newcomer's life.

Section 8 requires a regulated profession to provide reviews or appeals of its decisions.

1040

Another welcome feature of Bill 124 is the establishment of an access centre for internationally trained individuals which would provide information and assistance to internationally trained newcomers. This is another initiative that responds to the concerns about the complexity of the transition to employment for newcomers and the lack of coordination and information about available resources. As service providers, we know that the labour market is a moving target and that current and reliable information for consumers is difficult to maintain. A centralized service like the access centre that would focus on the needs of internationally trained individuals would be a welcome and valuable resource.

In conclusion, Hamilton's Centre for Civic Inclusion believes that Bill 124 represents a bold step forward in correcting inequities and unfair practices faced by internationally trained professionals. HCCI is looking forward to participating in further consultations during the implementation phase of Bill 124 and is urging the government and all parties to collaborate in the process of addressing the issue of licensing and accreditation for the benefit of all Ontarians. We urge you to support it and to recommend it for third and final reading.

Nevertheless, Bill 124 is a small touch of what internationally trained newcomers face in our community. Internships, residency spaces, fairness in recruitment, and retention are all things that need to be kept in mind.

Thank you for the opportunity to present our position to you today.

The Chair: Thank you. Can you just introduce the person who's with you at the table for the record? Then we have time for a quick question from Mr. Klees.

Ms. Denise Doyle: Denise Doyle, community development coordinator, HCCI.

The Chair: Thank you. Mr. Klees.

Mr. Klees: I appreciate your presentation. I do have a question for you. You refer to the Fairness Commissioner as, I suppose, based on what I'm hearing you say, sufficient to displace the specific recommendations of the Thomson report. We have had many presentations over the course of the hearings suggesting that what is important, if the Fairness Commissioner is going to have his or her effect, is that fairness be defined. What's miss-

ing in this bill—there are a lot of very good words: transparent, objective, reasonable time, all of these things. But the definition of those can be so broad that at the end of the day we once again have a piece of legislation of little effect for the person in the real world. Would you support that the government accept specific definitions of some of these terms so that we have more specifics to deal with?

Ms. Wasuge: No legislation is perfect when it is approved, but my hope is that the ministry round table for fair access to regulated professions will have the opportunity to make sure that every glitch in the legislation would be addressed.

The Chair: Thank you. Unfortunately, we've run out of time. I appreciate your presentation. Thank you for joining us today.

LONDON CROSS CULTURAL LEARNER CENTRE

The Chair: Our next presenter is the London Cross Cultural Learner Centre. Do we have someone from that organization with us? Welcome. As you're making your way to the table, I'll just explain the process. You have 10 minutes for your presentation. If you leave a little bit of time within that 10 minutes, the members of the committee will be able to ask you some questions on a rotating basis. Please begin your presentation by introducing yourself.

Ms. Mary Williamson: My name is Mary Williamson, and I'm the executive director of the London Cross Cultural Learner Centre. We are an agency that supports new immigrants and refugees who come to our region. I have the pleasure of knowing many people who've been affected because of the barriers, and many who see hope in the passing of this bill.

Many submissions have been made where we want to not talk about the human costs. I want to talk about the human costs.

I travelled a long way to get here this morning. I was late; I barely made it. There were roadblocks along the way. I had everything planned when I left the house this morning; I was prepared. I was not prepared when I got into Hamilton and saw the construction. It delayed my arrival. And that's what's happening to so many immigrants who are coming here—coming here prepared, coming here with the skills and the abilities to contribute to Canada, and particularly to Ontario.

I don't have notes; I don't have materials to hand out. I have, in my mind, the conversations that I've had with so many who get here, full of hope, full of promise that this country is going to offer them and provide them with a future, and then I have the voices of those who lose that hope.

This bill must be passed immediately. It may not be perfect. We don't need perfection. We need something to give them hope. We are losing far too many excellent people to other provinces, to other countries. Our province needs a labour market. We need the resources. We

are in a competitive environment right now, more so than we have ever been in. We need them and we need to show them that we, as a government, as a province, are doing something, that we are acknowledging the barriers and that we are determined to make a difference for them.

I'm not going to talk about the taxi drivers, the medical doctors who are delivering pizza. We all have heard that story. We have so many internationally trained professionals and skilled workers who are sitting on unemployment, who are sitting on our welfare rolls. Look at the cost of not doing something. Look at the family breakdowns when they come here with so much hope, where the head of the household is here and has convinced family members to travel with him or her. They get here. They come with money to support them for a year because we've told them that that's about the amount of time it will take. The money is running out. The despair and the hopelessness is in their face, in their eyes. We see family breakdowns as a result of the conflict that their inability to engage in the labour market is causing. We see far too many divorces. We see far too many suicides. We see far too much mental anguish and emotional instability as a result of our inability to allow them in.

People talk about, "We have to be careful. We have to protect. We have to make sure that they're qualified." Give them a chance. Let them know that when they're not engaging, when there is something that they have to do to get there, the road is a short road. Right now, we're seeing people coming who are delaying their engagement in their profession, delaying it for survival jobs, delaying it to the point that they give up any possible hope of ever re-entering. It is those folks we must consider when we're looking at this bill.

I look at it as a parent and I remember how many times we heard, "Do you wait until everything is perfect to have a child?" No. If we waited for a perfect world, we wouldn't see evolution. We need to make it. When this bill was presented in London, we had a room full of internationally trained, internationally educated individuals there in the audience, who for the first time in years saw light at the end of the tunnel. They applauded, and they have been out on the streets and in the media promoting this bill.

It's not for me, although it will make my job 100% easier. It will make the work of everybody in the community a lot easier. It will make the economy of our communities grow faster. It will get people off the welfare rolls and get them into positions where we need them. We are now entertaining provincial nominee programs where we're going to start possibly being able to recruit offshore for the labour market needs in Canada. Well, darn it, it's here already. The people are here with those skills. They just need the opportunity.

1050

I did a survey of more than 80 doctors, medical doctors in London, and that's just one example. They were with us three years ago. They attended a workshop. Last

summer we were doing a piece with the local A Channel on medical doctors and I tried to get in touch with them. I found out that more than half of them had left our city. They had gone to Alberta, to Quebec, to the Maritimes, to Vancouver, and a lot had gone to the United States. Many who had gone were practising. They found that key. They found their way. I hear them say, "Just let me show you what I've got. Let me prove that I am worth it." They don't want anything put down to allow them in. They don't want the gates lowered. They just want the gates to be open and available to them.

I speak. I'm a white woman, a woman of privilege. When I took this job, I thought, "I'm not the person to speak. Why doesn't my organization have an immigrant woman at the head?" It was through an interchange at a job search workshop where the client stood up and said, "We need people like you to speak for us because all too often, when we open our mouths and our voices come out, the ears are turned off and people don't hear our words." So I am here to bring the faces and the voices of those people who feel so disenfranchised.

The Chair: You have about a minute.

Ms. Williamson: I'll give another example of one of the things I don't understand. Again, I'm going to the medical profession. We run a translation business where people come in and get their documents done. I have the opportunity of meeting people there. I have medical doctors who are here on temporary work visas who have fallen in love with our country and would like to stay. They have been brought here to work under these temporary permits but have also been told that, should they decide to stay, they would have to go back home and reapply to come under the skilled workers program, apply and get in under the points, but once they got to Canada, they would not be qualified to work. So when we look at this legislation, we need to remember that there are so many people who will benefit, if not immediately, at least it will give them hope. Thank you very much.

The Chair: Thank you very much. We appreciate your coming, notwithstanding the construction, to share with us your comments this morning. Unfortunately there's no time for questions.

HUMAN ENDEAVOUR

The Chair: Our next witness to today's committee is Human Endeavour. Is someone there from that organization? Please join us at the table. You'll have 10 minutes for your presentation. Should you leave a little bit of time during the 10 minutes, committee members will be able to ask you some questions. Please begin your presentation by introducing yourself. If you choose to take the whole 10 minutes, I'll let you know about a minute before the end of the time that it's time to wrap up. Welcome, and thank you for coming.

Mr. Noor Din: Thank you, members of the committee. My name is Noor Din, executive director of Human Endeavour.

I came to Canada in 1990. I had a bachelor's of computer engineering degree, engaged in employment in my field in 1991, and completed a master's of computer engineering from U of T in 1997. In 2004, I entered into the community service sector by establishing Human Endeavour in the city of Vaughan and in York region.

Slide number 3, the importance of immigration: "There is growing recognition that migration is an essential and inevitable component of the economic and social life of every state, and that orderly and properly managed migration can be beneficial for both individuals and societies." That's from International Organization for Migration.

I would like to quote the Deputy Minister of Citizenship and Immigration, from one of the conferences: "Ability to manage migration will become the essential measure of successful countries in the 21st century." The numbers that we normally see, 240,000 or 260,000 immigrants coming in, is kind of irrelevant if we are unable to integrate them into the economy.

Some more statistics to cover my points: In 2004, 70% of the net labour force growth in Canada was due to immigration. In 2011, this will become 100%.

We have an aging population. Canada has a birth rate of only 1.5 children for each woman. If current trends continue, there will be more people in 2017 over the age of 65 than under the age of 15.

On the population growth side: In this decade, as of 2006, net immigration has accounted for 60% of the population growth, up from 46.2% a decade earlier. In 2030, net international migration would become the only factor in Canada's population growth. Those are some statistics.

I will just go through quickly who the immigrants are. They are highly educated and of prime working age. They are family-oriented with a positive birth rate that is double our national average. Canadian investment in their education is zero; rather, we gain billions of dollars on the education that they bring in. And they are the best of their countries. That is our selection criteria.

Slide number 6 shows you how, over time, Canada has inclined towards economic and skilled labour, which accounts for 60% of the immigrants who come to Canada.

Slide number 7 covers some statistics about the education of immigrants. These are from Statistics Canada. They are for men. Women are pretty close to this; there are similar trends as well. It is recognized by Canada that the immigrants who arrived during the 1990s helped to lift the national education level in Canada. These are the types of immigrants who are coming to Canada.

I would also like to bring some perspective from the technology sector on some of these immigrants. I give one example, ATI Technologies in Markham, which is one of the largest graphic chip manufacturers in Canada. The vice-president of ATI said, "ATI has found that international skills and credentials are transferable to the Canadian labour market. By sourcing globally, it has

created a working environment that contributes to attract and retain the very best people from around the world."

I have given you some statistics about what type of immigrants are coming and two earlier quotations about managing immigration. I would just like to show some statistics that show how we are managing these individuals when they arrive in Canada.

Slide number 10 gives you a continuous decline. In the 1980s, it was only taking 10 years for immigrants to catch up to the Canadian-born. In the 1990s and 2000s, there's a continuous decline, which is quite disturbing. In other words, it's taking longer and longer for immigrants to catch up to the Canadian-born workforce.

Slide 11 shows the disparity in treatment. On one side I just show the decline. This particular slide is in colour. The lighter colour shows that the income levels of the Canadian-born are increasing whereas the income levels for immigrants are decreasing, which is a quite disturbing trend. Some of the factors are how recognition happens and how they are integrated into the workforce.

I would just like to give a quotation on the recognition of credentials, because that is one of the keys for Bill 124. This statement is from Prime Minister Stephen Harper: "The biggest barrier to new Canadians is the frequent failure of Canada to recognize legitimate foreign credentials."

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On the recognition of credentials: One statistic I have found is on slide 13. Between October 2000 and September 2001, a total of roughly 124,000 immigrants arrived in Canada with one or more foreign credentials. After six months in Canada, only 14% of these immigrants had their credentials assessed and fully accepted. I mean, if you just realize that these immigrants come with maybe no more than one year of income at hand—there are only 14% that have been recognized. I could not find any statistics about one year or two years from Stats Canada, but from my point of view it should have been more than 60% or 70%—even close to 80%—because the initial few months are key. Then they should actually get into the job search. After six months, the majority are still trying to get their credentials done.

The next statistic is from Stats Canada, that 60% of unrecognized learners are foreign-trained. This is the gap between the number who have been recognized versus who could have been recognized and rewarded. What the information that I have provided shows is that we have a dysfunctional system of integrating newcomers and recognizing their skills, yet this is one on which our future depends. I will give you some more information on why I'm giving you that.

Some of the next slides basically go into some of the things that I think are very key, in terms of the perspective of this bill and how we as Canadians should really look into addressing the issue of integrating newcomers. Some of the few important points are:

Canada loses approximately one in six of its newcomers within the first year because they are unable to integrate. This number is higher for certain groups. I have

seen a number that was given—30% by Stats Canada—but that was for certain communities.

Six in 10 immigrants are forced to change their careers, not for the good but actually for the worse.

Tremendous economic opportunities that are happenings in Asian countries are creating reverse immigration, and there are clear signs of this. I have some information that I will give for the record so you can take a look. It can be seen in Silicon Valley in the US that a lot of the Indian immigrants have gone back and started their businesses; and the drop in Chinese students all over the US and Europe—like 30%. I have given Mr. Peters some information on that. These are some of the trends that we as Canadians have to, if we want to—

The Chair: Can I just let you know that you have less than two minutes left. I know you have lots of slides, so you might want to prioritize.

Mr. Din: Okay.

The economic implications and the future of Canada: What type of Canada are we building with so much talent waste and frustration? Unfairness one day can lead to social unrest, like the very recent events in France and Australia.

Bill 124 is a recognition of an issue that has national implications. It's not about preferential treatment; it's about fairness.

I will skip some of the things.

It's a spirit of working with the regulatory bodies, along with the three main sections that it talks about.

Bill 124: A balanced approach. Bill 124 is the first of its kind, and demonstrates a balanced approach of authority and co-operation. Imposing legislation will only result in compliance and resistance. This will not help our immigrants. What we need is the commitment of all involved, including regulatory bodies. This can only be achieved with a blend of authority, co-operation, fair and open practices and information-sharing. I believe that Bill 124 is providing a balance through its three key elements and a spirit of co-operation with the regulatory bodies.

Some of the suggestions I have for Bill 124 are:

Efforts should be focused in educating, and getting the full support and commitment of the regulated bodies. They should also learn from the private multinational sectors how they are conducting their businesses.

Provide meaningful mentorship, internships and training opportunities. Regulated professionals have the right to work in the Canada, and Canada has the responsibility to provide those opportunities.

Invest billions of dollars that Canada is losing due to non-recognition—and again, because of their education—into programs and opportunities.

The Chair: Thank you very much, Mr. Din. Unfortunately, we've run out of time, and we're already a little bit behind. We want to thank you for your presentation. It has a lot of great information in it. We very much appreciate you coming to share with us here your thoughts this morning. Thanks very much.

Mr. Din: Okay. Thank you.

HAMILTON URBAN CORE COMMUNITY HEALTH CENTRE

The Chair: Next we have Hamilton Urban Core Community Health Centre. Good morning; welcome. You have 10 minutes for your presentation. If you leave some time during those 10 minutes, members of committee will be able to ask you some questions. If you decide to take the whole time, I'll let you know about a minute before to wrap up. Please begin by introducing yourself. Welcome this morning.

Ms. Denise Brooks: Good morning. My name is Denise Brooks. I'm the executive director for Hamilton Urban Core Community Health Centre. We certainly appreciate the opportunity to appear before the standing committee and speak to Bill 124.

Hamilton Urban Core is a community-based agency mandated to provide primary health care services and health promotion programs to individuals, families, groups and communities within the inner city. The centre was founded in 1996 and provides services to more than 10,000 clients within our inner city. The primary populations served by the centre include people who are homeless or at risk of homelessness; immigrants and refugees, particularly those who are newly arrived; low-income individuals and families; people with mental health issues; street-involved youth; and isolated seniors.

As you know, Hamilton is one of the most diverse cities in Ontario and, in fact, in Canada. With a population of approximately 500,000, Hamilton is the third-largest receiving centre for immigrants and refugees and a popular choice for many for secondary migration. Approximately 40% of the population identifies as being born outside of Canada, and there are over 52 language groups represented in this area.

Recently, the Social Planning and Research Council's report *Incomes and Poverty in Hamilton* noted that the poverty rate in Hamilton is 20%, with the highest incidence being in the inner-city areas. Within the 20% poverty rate found in Hamilton, racialized communities and immigrants and refugees experience an even higher rate of poverty. For example, recent immigrants and refugees experience a poverty rate of 52% in Hamilton.

In this context, the challenges experienced by new immigrants are even more pronounced. Newer communities experience barriers to labour market integration as well as discrimination on a number of levels, such as lack of recognition of and value for internationally earned credentials, devaluing international employment histories and differential treatment in recruitment and hiring processes. This inequity leads to chronic unemployment and underemployment of internationally trained professionals and contributes to the higher rates of poverty amongst immigrants and refugees.

Hamilton Urban Core has a history of assisting internationally trained professionals in gaining valuable professional experience by providing opportunities to shadow or to be mentored by health professionals. Fair and equitable access to regulated professions is of great

concern to us, particularly as poverty, employment and social inclusion are key determinants of health. It is with great anticipation and a sense of hope that we are watching this process unfold, and it is with support for the spirit and intent of the act that we make the following recommendations that are intended to help strengthen Bill 124.

Regulated professions: The bill identifies that professions that are not included in this act are those that are covered by the Regulated Health Professions Act; however, the bill does not list the specific professions that are included. In comparison, the RHPA lists all of the colleges that are covered by the act and includes a list of self-governing health professions. A decision to list the specific professions in regulations rather than in the bill may open the possibility of changes by future governments to the list without oversight. If the listing of professions were contained in the bill itself, it may lead to a longer oversight process; however, it would give some assurance of securing input before these changes are made.

Hamilton Urban Core recommends that the regulated professions covered by the bill be named in the bill, and, if the list is not inclusive of all regulated professions, that authority be given to allow the additions in future. We understand that professions addressed in the Regulated Health Professions Act are excluded from being listed explicitly in this bill, and we support the direction of amending the wording of the RHPA to be consistent with Bill 124.

The bill states that a regulated profession should provide an internal review of or appeal from its registration decisions within a reasonable time and that the choice of the process rests with the regulated profession. It also notes that the regulated profession also decides the format of submissions, that is, oral, written or electronic submissions. In comparison, the RHPA provides for the applicant to apply to the Health Professions Appeal and Review Board to hold a review of the application and the supporting documentary evidence.

1110

Hamilton Urban Core recommends that the bill maintain consistency with the Health Professions Appeal and Review Board process and require all professions to provide an avenue for the internationally trained professional to actively participate in the appeal process. As noted in Judge Thomson's report to Citizenship and Immigration Canada, "The opportunity to present one's case to those making the decision is powerfully linked to the perception of fairness."

It is important that the bill provide the internationally trained professional with the right to engage in an appeal process that includes both a written and an oral, or in person, component. Should this process prove to be a barrier for the internationally trained professional, the decision of the format of the appeal should be the choice of the internationally trained professional, not left solely to the regulated profession.

Hamilton Urban Core further recommends that the bill specify who should conduct the review or appeal. An independent third-party appeals tribunal or appeals body should be established to conduct the appeals. The appeals tribunal or body should be adequately resourced to ensure that high-quality reviews are conducted in a timely way. This would support the principles of fairness and transparency espoused in the bill.

The bill seeks to establish an access centre for internationally trained professionals to provide information and assistance for applicants for registration; provide schools, employers and occupational associations with training and information on fair registration practices; and serve as a government resource on issues pertaining to internationally trained professionals. However, the relationship between the centre and the commissioner or the ministry is not clear.

Hamilton Urban Core recommends that a mechanism be established in the access centre to evaluate the equivalence of standards between regulatory bodies and educational institutions in Ontario and in other countries. This information or data could be provided to regulatory bodies to expand their knowledge base and assist them in determining equivalence of credentials.

Internationally trained professionals would benefit from support and guidance as they navigate seemingly complicated processes that are often masked by traditions, norms or nuances that are unknown to those outside.

Hamilton Urban Core recommends that the role of the access centre be strengthened by requiring the centre to engage trained advocates to work with the internationally trained professional in navigating the application and appeal processes. The advocate should be available to the internationally trained professional without charge and should provide legal and professional advice.

Hamilton Urban Core further recommends that the centre would benefit from being connected directly to the commissioner's office or to the Ministry of Citizenship and Immigration, thereby giving its work legitimate standing.

The Fairness Commissioner is responsible for providing oversight through the reporting and audit requirements of the bill and for reporting annually on the implementation and effectiveness of the act.

Hamilton Urban Core recommends that the Fairness Commissioner be appointed by the Legislature. The Fairness Commissioner should report annually to the Legislature on the impact of this act on the employment and the certification of internationally trained professionals.

The bill, however, does not permit the commissioner status at any hearing by a regulated profession, including an internal review or appeal. While it is clear that the commissioner should not be involved in an individual application for registration, disallowing the commissioner standing at an application appeal or other tribunal would exclude the commissioner from participating in hearings where there are issues of systemic barriers.

Hamilton Urban Core suggests that this section be reconsidered to make the best use of the commissioner's expertise and experience in identifying and seeking to address systemic barriers

The Chair: You have just less than two minutes left.

Ms. Brooks: The bill requires that the regulated profession make its own assessment of qualifications and that it must do so in a way that is "transparent, objective, impartial and fair." The bill further states that if a regulated profession retains a third party to assess qualifications, it is expected to only take "reasonable measures" to ensure that it is transparent, objective, impartial and fair. This appears to be two standards, without clarity about why two standards should be applied. The bill also provides for oversight of third-party assessment by the Fairness Commissioner in order to ensure that the assessment is based on the obligations of regulated professions under the act. It would seem that this language should also be applied in any instance where there is reference to third-party assessment.

To a large degree, this bill is the result of long-term concerns with barriers experienced by internationally trained professionals. Of particular note are the barriers within the assessment process. In the interests of ensuring consistency, Hamilton Urban Core supports the Ontario Council of Agencies Serving Immigrants recommendation to ensure that the bill clearly define the meaning of "transparent, objective, impartial and fair" in the main body of the bill and in amendments to the Regulated Health Professions Act. Because these are broad, abstract terms that are both highly interpretive and quite subjective, it is important to establish clear definitions or benchmarks, rather than leave an open-ended interpretation. This may not address systemic discrimination in access to the process or in conducting assessments, but it is a step in the right direction.

The Chair: I'm sorry, I'm going to have to interrupt. Unfortunately, we've run out of time, but we do have your written submission. Members of committee might notice that there is an error in photocopying, but we do have the full submission and we'll make sure that members of committee are given that submission before the end of the day. Thank you for your presentation.

MAHESH BUTANI

The Chair: Next we have the presentation from Mahesh Butani. Is Mahesh here? Welcome. Can you just join us at the end of the table? I've been asked, as Chair, when there's an individual presenting, to just clarify whether you're bringing your own opinion or that of an organization or group. So make yourself comfortable. You have a 10-minute time frame and if you leave time within that, members will be able to ask you questions.

Mr. Mahesh Butani: Hello. My name is Mahesh Butani. I am bringing, I guess, an individual opinion to the public issue.

I happen to be very familiar with this issue of foreign-trained professionals as I came to Canada to practise

architecture and build a life. Having got my licence to practice architecture 25 years ago from India and having taught architecture at the university level, I ended up discovering the ground reality of building a professional career in Canada.

Bill 124, I think, is timely and I think it's needed. In my opinion, however, what we need to understand as a society is, is this kind of legislation going to solve the problems that professionals face in making a living? We do have a very serious problem in terms of being competitive as a society internationally. Most of the people who have been affected locally have moved out. Most of the people have moved out, and by virtue of electronic transmission and the Internet, the word among a lot of professionals has already been circulated that Canada is not a place to come and practise any of the careers, whether it's architecture or funeral director, for that matter. So what we're facing here is trying to come up with legislation which may be a little too late in the game.

The basic markets, I think, have already shifted to the East and Far East, and what we're trying to do now is something that Canadian society should have done 20 years ago. How do we turn this into some kind of positive thing for people who have chosen to stay here? I don't know. My gut feeling is that Bill 124 is talking about registration, but it's not talking about employment in the sense that there's a presumption that every foreign-trained professional is wanting to practise here. The markets have shifted, as I said already. There is very little room to practise, outside of medical practice. There is no real incentive to stay back and practise in this country. So a lot of the issues foreign-trained professionals are facing are about employment, and no matter what Bill 124 does, it's not going to change the basic premise of generations of Canadian-trained professionals who have essentially grown up to believe in the sense of entitlement that "We are going to decide who gets hired or not." That's not going to change. We need to have something much more than legislation to change the social tragedy.

I don't know if that area is even addressed by this bill, but I did come across another bill with the same name, Bill 124, by the minister of housing affairs, which had a tremendous, almost devastating effect on the architectural profession in Ontario. For a while I thought it was connected, but apparently they're two different bills with the same number, Bill 124. Bill 124 by Minister Gerretsen, Minister of Municipal Affairs and Housing—they ended up actually having every single architect and engineer to get recertified. In a way, it was almost like divine irony that here are these local guys who have been trained and who are being forced to be recertified.

1120

Can this Bill 124 have that effect? I don't know. The way it's drafted, it might be difficult, because it's too generic and too soft. In my opinion as an individual, what I am trying to do is actually seek employment equity, and through a class-action lawsuit that I'm proposing against all the 40 to 50 associations, I am intending to get the lost

income of all these professionals, which might amount to 80,000 to 100,000 over the last 20 years. I'm attempting to do that, and in a way I think that might have some social justice angle.

We need to continue with these efforts, but I think Canada has already lost that battle, as cynical as it may seem. I don't know what the future holds for existing foreign-trained professionals here. Sadly enough, just last week I interviewed with an architectural firm out of California. So nine or 10 years later, out of Hamilton; I may be leaving. That's a ground reality. As adults, as people eyeing the respect of the world, we don't seem to be making the right choices, repeatedly.

A quick snapshot of how self-regulation came about in the architectural profession: There's a book written by a professor from Kitchener documenting the architectural history from 1890 to 1930, and it somehow very interestingly captures the whole essence of how self-regulation came to be in the architectural profession. It had nothing to do with Canadian standards or trying to establish certain safety measures. It had everything to do with greed, essentially, and greed not to keep foreign-trained architects as much as Americans out. In the 1920s, American architects from Buffalo and Chicago were coming to Toronto, and to keep them out, there were a couple of individuals in Toronto who decided to impose self-regulation. As a private member's bill, it went through below the radar and it got approved. So self-regulation came about by that position. Even the local architects that I mention it to don't have a sense of that history, so they look back and say, "Hey, you know what? This is what we are entitled to."

Absurd as it sounds, there is no rationale for self-regulation. It's like giving a knife in the hands of a monkey. You don't regulate yourself. In the US, when you get your licence, you go the ministry of education. You don't go to your peers and say, "Look, certify me." That's where the root cause of evil of this kind is, and rather than try to negotiate or rationalize with these associations, I think what we need to do is to take a serious look at the very nature of self-regulation and see whether there is any precedent of this kind in the world. I don't think there is. So what we need to do is to actually hand over all self-regulatory mechanisms to the relevant ministries, and I think the issues will end in themselves, because your peers are not going to help judge you. Your peers are not going to decide whether you are going to come into the profession or not; it's an administrator from the ministry who is going to decide.

I think there are simpler ways to skin the cat and to come up with more legislation. Twenty years ago—this is like Groundhog Day, written all over. Twenty years ago, this society went through a similar exercise, and there is extensive documentation in the Hamilton library of these same issues discussed repeatedly about foreign-trained professionals. So this is not new. It's like we keep doing this to ourselves. As a result, we have become pretty much intellectually bankrupt as a country, because most of the creative enterprises have moved out. There are

very few creative industries left in Canada. They are all protected industries, self-serving of themselves and their members. In Europe, Asia, all kinds of creativity, in every aspect, from automobile design to aeronautics—everything—is happening outside of Canada. That is the sum total of what these kinds of policies can lead to.

The Chair: You have less than a minute left.

Mr. Butani: These are some random thoughts. If that minute can be used for any questions, then I'll leave it at that. If there are any thoughts to continue with this line of thinking, I'd appreciate if there are any comments on that.

The Chair: Unfortunately, you haven't left enough time for any questions. But we do very much appreciate your coming to speak to us today. Thank you.

Mr. Butani: Sorry about the impromptu nature of the comments. I didn't end up preparing much. These are thoughts that have grown over the last 10 years. Thank you very much.

HARISH JAIN

The Chair: Our next witness to the committee is Harish Jain. Welcome. Please make yourself comfortable at the end of the table. You have a 10-minute time frame for your presentation. You can introduce yourself for the purposes of the record. If you leave any time at the end, members of committee will be able to ask you questions. I'll give you a warning when you have about a minute left, in case you use all the time.

Mr. Harish Jain: Thank you very much, Madam Chair.

I teach at McMaster University. The mandatory retirement legislation came too late for me. I'm still doing some teaching. I just want to say what a great opportunity it is for the province to introduce something like that. I remember that in the 1960s there used to be a CBC show, *This Hour Has Seven Days*, and that came up with the restrictions on the professions and how the professions actually regulate themselves in a way that restricts the supply of people to raise the qualifications of people. So for me to say that—it's unfortunate that this has been going on. That show started in the 1960s. That still remains; whether it's professions or trades or what have you, that's a big problem.

Let me just say that I want to congratulate the government of Ontario on bringing forward this bill. It's a very important bill. The intent is very good, but there are some changes that need to be made. I think the Hamilton Urban Core referred to some of the problems that immigrants face, and one of the problems of course is that of discrimination, which I'll go into in a minute.

Most of the recent immigrants to Canada are visible minorities. Hamilton will have almost 16% by 2017, and had more than 9% in 2001. Immigrants are younger and better-educated than the average Canadian population. I looked at the statistics. Hamilton is the seventh-largest—not the third-largest—city in Canada to receive more than 600,000—to be precise, 655,055—immigrants in 2001.

That, I'm sure, has changed now, but at least those are the figures I came up with from the census. That's a fairly significant number. We in this city are facing a very big problem. Immigrants—I know my colleagues from the SISO board are here, and they'll probably tell you some of the problems that immigrants face.

What I have done studies on is the discriminatory practices that immigrants face. One of them is hiring practices. Most employers, whether they do it intentionally or unintentionally, by systemic or any other way—there is a lot of discrimination against immigrants. There's a lack of familiarity with foreign-acquired education among Canadian employers. That may be part of the systemic problem. There are differences in specific skills represented by qualifications acquired overseas.

1130

Lack of Canadian work experience: The Ontario Human Rights Commission and a number of other commissions did a study in the early 1970s that looked at MBAs who acquired Ontario university MBAs and they compared them with immigrants and native Canadians, and they found that with less education they had more difficulty in finding jobs, they had great difficulty in getting promotions, getting more money—they had a lot of problems. That, I think, is a continuing experience that immigrants face.

There is high unemployment, and hidden unemployment of those who simply give up this job search.

Occupational segregation: People are driving taxis. Some immigrants—if you go to Alberta or Toronto, you'll see that the taxi drivers are Sikhs, but a lot of them have higher qualifications than for driving taxis or delivering pizza. But that, unfortunately, is the case.

The evidence of these systemic type of job barriers is significant. It costs the Canadian economy close to \$15 billion every year. And that's not my study; that has been studied by a number of organizations. I can give you the references if you're interested. In addition, it has been calculated that immigrants earned \$2.4 billion less than native-born Canadians with similar skills because of working in occupations at lower skill levels. That's what I mean by underemployment.

Consequently, as the lady from Urban Core mentioned, there is a great incidence of poverty among many immigrants, a significant loss of potential provincial and national output. This places a great strain on our social support system, including higher welfare and penal system costs. These are all related, and there are many other things related.

They tend to be underrepresented in skilled professional and managerial occupations. I haven't done a study about the Ontario public service, but I have done a study about the federal public service. Of all the four groups covered by the Employment Equity Act, visible minorities, because the Employment Equity Act didn't apply to the federal public service, are 8% now compared to 13% in the population.

I think next I'll just go into the bill itself. I think there should be a human rights and fair practices code. Regis-

tration requirements should be in compliance with the Ontario Human Rights Code. There should be a human rights and fair practices code which should clearly indicate and outline the principles governing the assessment of qualifications and the prohibition of discrimination in the assessment of overseas qualifications, training and experience. It's very important that the accreditation process should be based on published criteria that can be reviewed by external experts. It's not so now. The assessors should be trained in human rights and principles of law and they should have demonstrated competency. Why do we require our arbitrators and judges to know the Canadian Charter of Rights and Freedoms? Why shouldn't they be told to do the Ontario or Canadian or any other jurisdiction's human rights code? That's not required right now.

The Chair: You have about a minute left.

Mr. Jain: Okay. It's very important to define terms that were referred to earlier: "transparent, objective, impartial and fair."

Since I have a minute left, let me just say—I teach labour relations; I teach recruitment and selection—that any tests administered by professional bodies must be culturally sensitive, fair, reliable and valid. That provision is lacking. I think that should be there. I'll leave it there. I have many other things, but I can't—I've given a copy of my presentation.

The Chair: Thank you very, very much, Professor Jain. We appreciate your comments and your presentation this morning. Thank you for joining us.

HAMILTON IMMIGRANT AND REFUGEE ADVISORY COMMITTEE

The Chair: Next we have the Hamilton Immigrant and Refugee Advisory Committee, if you could join us at the end of the table. As you join us, you'll know you have a 10-minute time frame for presentation. If you leave any time within that time frame, you can expect questions from committee members. As you begin your presentation, please introduce yourselves for the record. Welcome, and thank you for joining us.

Ms. Carolann Fernandez: Good morning honourable Chair, Andrea Horwath, and other members of the standing committee. I'm Carolann Fernandez, and with me here today is Betty Chou.

We are here representing the immigrant and refugee advisory committee to Hamilton city council. Our other members couldn't attend because, as you are aware, as new immigrants they have the challenges of work, attending school or child care. Having this meeting during the day certainly presents a barrier and a challenge to newcomers and the members of our committee who are so passionate and committed to the issues raised by Bill 124.

The committee's mandate is to make recommendations related to policies, procedures and guidelines which address the needs and concerns of immigrants or refugees to the mayor, city councillors and city staff. Our terms of

reference include: information sharing; education and awareness of issues; collaboration with other city advisory committees, community agencies and committees; engaging with the immigrant and refugee communities; and building relationships with other levels of government to ensure that a coordinated effort to eliminate barriers for immigrants and refugees exists.

Our committee is made up of individuals who bring a diversity and wealth of life experiences, skills and expertise to the table. We represent different races, colours, ethnicities, cultures, faiths and family structures, and hence a variety of needs, desires and hopes for themselves and their families. They share similar experiences with respect to systemic barriers, lack of relevant service and gaps in service when trying to access and navigate the professions and trades systems.

Many of us share similar stories, including the stories that we have each heard from many newcomers and refugees, with respect to expectations when we made the decision to come to Canada. Our expectations are no different than others in that we came here with a promise of a better life for our families. We were told that our professional background, designations and credentials would be valued in Canada, and that is what the point system also implied when we made the applications. Why should we have a point system that values various professions and levels of education if only to come to Canada and find out that our hard work and accomplishments mean nothing here but hurdles, barriers and eventually living in poverty? These are circumstances that many immigrants did not experience in their countries of birth or where they migrated from. In Canada, many of us are underemployed or not employed at all, due to this dismissal of credentials and work history from professional bodies and many employers.

We would like to congratulate you for bringing Bill 124 to fruition, as we see it as a step forward to ensuring transparency and hopefully clarity in the processes required by regulated professions that would enable trained immigrants to practise in their field. We also applaud you for bringing the consultation process to Hamilton, where we have many qualified professionals not working in their field, or even related fields, to provide input from their perspectives.

I'll now ask Betty to take over.

1140

Ms. Betty Chou: Thank you, Carolann. Our committee fully endorses the eight recommendations that were put forward by the New Democratic Party. We've grouped these recommendations according to the proposed legislation, and we present our comments. Our themes focus on the issues of access as well as accountability.

Under part II of Bill 124, Fair Registration Practices: General Duty, we support fully establishing a fair registration practices code within the legislation.

We also support naming the regulated professions that are covered by the act and giving authority to allow the adding of more regulated professions in the future.

Our committee supports these recommendations because they help define and establish standards across all the professions as to what should be a "transparent, objective, impartial and fair" assessment practice. That code of ethics would also facilitate the development of benchmarks in order to measure the success of the intent of this act. It also clarifies what is meant by a regulated profession versus an unregulated profession or even where the trades fit into this. This whole thing is to facilitate navigation of people who are not part of the system.

Under part III, Fair Registration Practices: Specific Duties, we support establishing an independent regulatory appeal tribunal to hear the appeals to rejection of registration in a professional body. These tribunals need to be adequately resourced for high-quality reviews in a timely way.

Our committee supports this because it provides more recourse and rights to immigrants who wish to appeal a decision made by a regulatory body regarding their qualifications.

Under part IV, concerning the commissioner, we support that the Fairness Commissioner be appointed by the Legislature and that the Fairness Commissioner report annually to the Legislature on the impact of this legislation on the employment of internationally educated professionals and report on the success rate of internationally educated professionals in applying for certification.

We also support giving the minister, upon recommendation from the Fairness Commissioner, the power to eliminate registration practices that are contrary to the fair registration practices code.

Our committee supports these recommendations because we see this as helping to strengthen the accountability for the intent of the legislation.

Under part V, issues pertaining to the access centre for internationally trained individuals, we support establishing a department within the access centre established by the act which will evaluate the equivalence of standards between regulatory bodies and educational institutions in different countries and in Ontario. This data will be provided to regulatory bodies to assist them in determining equivalence of credentials.

I've digressed a little bit here, but I think it's an important point. World Education Services, otherwise known as WES, has been deemed as the province's credential assessment agency of choice; however, we know that there are others out there. Perhaps there should be some consistency and standards in this area in order to improve service not only to the immigrants but also to employers and educational institutions that are faced with having to assess the assessment of the credentials.

We also support the provision of legal and professional advice to new Canadians seeking recognition of credentials. This includes provision of trained advocates, without charge to applicants, to present the cases of applicants before the regulatory appeal tribunal.

Our committee supports these because they help clarify the supports that are necessary and also improve accessibility.

The Chair: You have about a minute left to wrap up, Ms. Chou.

Ms. Chou: Okay. In addition to these recommendations, we felt that we should incorporate these other ideas.

The assessment centre needs to work with the regulated professions in building capacity to streamline the processes. There's so much emphasis on auditing mechanisms that we're concerned that the resources won't be in place to implement the processes and the services. Training should also be given to individuals in assessing qualifications, and that should include building flexibility and quality in the assessment processes. Ontario used to be a leader in flexible assessment.

Equity should be the measurement for access in the process, not equality, as these terms do not mean the same in terms of opportunities. We also would like to see assurance that the intent and the processes of Bill 124 are well communicated to newcomers in Canada and potential immigrants abroad and we'd like to see assurance that this legislation will not increase barriers to immigrants or become costly for them to participate.

The Chair: Thank you very much. We really appreciate your presentation. Time, unfortunately, has run out and we still have another presentation; we're running a little bit behind time. I want thank you for joining us today. Thank you for your comments. We very much appreciate them. Unfortunately, there's no time for questions.

Ms. Chou: Thank you.

RANKO TODOROVIC

The Chair: Next on the agenda we have Ranko Todorovic. Good morning. You have an opportunity to speak for about 10 minutes. If you leave time in that time frame, members can ask you some questions. State your name for the record. If you decide to use the whole time, I'll let you know about a minute before so that you can wrap up.

Mr. Ranko Todorovic: Thank you. Good morning, everybody. My name is Ranko Todorovic. I immigrated to Canada in 1995 from Bosnia. I worked for seven years as a mechanical engineering technologist, eight years as a mechanical engineer and three years as an economist in Bosnia. I am unemployed now, living on social assistance. Besides my two diplomas from Bosnia, I have a Canadian Microsoft certified systems engineer computer network specialist diploma.

More than half of the immigrants arriving to Canada choose Ontario as their new place to live. That means over 130,000 new immigrants arrive in Ontario, or 356 every day, or 15 every hour, or one every four minutes. I was told that my presentation was supposed to last 10 minutes. By the time I finish my presentation, two and a half new immigrants will arrive in Ontario.

Nobody can convince me that the Ontario government and its Ministry of Citizenship and Immigration can organize the bringing of immigrants to the country so perfectly, and after the moment they cross the country's border they are forgotten and left as old used cars in a scrap yard. We cannot say that only this government ignores such a crucial issue. Every government before them did exactly the same, even though they did not originate from the same party as this one. I'm talking about the two-term Mike Harris government. This has obviously been a long-term political trend.

According to the Canadian Council for Refugees, in the period from 1979 to 2003, 4,330,619 immigrants came to Canada. According to the CIC website, in 2004, 2005 and 2006, another 618,060 immigrants crossed the Canadian border. It's 4,948,679—or almost 5 million, if it's easier for you—approximately, for the whole period from 1979 to 2006. That is more than the entire population many countries on this planet have. Let's say that at least half of them came to Ontario, which was almost two and a half million. I don't want to bother you with numbers. Considering the fact that about 45% of them have a university degree, which is precisely 1,113,452, while at the same time the rest of the population have this statistical category on only an 8% level, I would be interested to know how many of them work in a university degree position, excluding those who brought some money and bought their own businesses. If this isn't proof of the long-term trend in inappropriate politics toward Ontario's immigrants, then what is it? It's hard to say what the reason for this social phenomenon is. I can only speculate with a logical assumption that immigrants serve as the least expensive and most qualified labour for this province.

The Ontario government should have an answer to this question. Almost half of the immigrants have a university education; only 20% of them do not have a high school education. Almost half of them speak English on their arrival. How, then, to explain the fact that so many highly qualified, internationally trained professionals work in minimum-wage-job positions? I tried to find out the structure of immigrants' labour myself, but unfortunately my attempt was not successful. It might not even be available. If there is such a record, the Ministry of Citizenship and Immigration should let the public know about it.

1150

Despite the fact that over 50% of all Canadian immigrants come to Ontario, this province was the last one to sign an agreement with Canada about all the issues related to Ontario immigration. The agreement was signed on November 21, 2005. Even though it's been more than a year since it was signed, I could not find any positive outcome as a result, or any concrete action with regard to this agreement. If there is some, I would be very glad to hear it, as a person directly affected by the efficiency of the execution of this agreement.

Summarizing this whole issue, one can come to the conclusion that the Ontario government and some of its

ministries, the Ministry of Citizenship and Immigration in the first place, have to make a total turnaround with regard to Ontario immigration matters. In my opinion, this turnaround should be a logical continuation of the very successful process of bringing them to the country. I would construct this process in several phases:

Phase 1: personal record information collecting.

Collect all of the immigrants' relevant information: personal, educational, medical, information about working experience, English language skills, other languages skills, any useful extra skills and any other relevant information.

Phase 2: personal record information sorting and classifying.

Classify records according to English language proficiency, using an efficient method of testing. Form groups and open classes for immigrants who need to learn English, including the group ready to work. Execute the ESL program for those who need it, and, in co-operation with other respective ministries, establish internship programs for those who do not need to learn the language.

In the meantime, establish an appropriate correspondence with each country's respective ministries and educational institutions, if possible, in order to collect the relevant educational standards information needed in the future processing of the educational records' evaluation. At the same time, contact previous employers for work experience evaluation. The translation of all the documents should be done in this phase too.

Phase 3: international education and experience equivalency process.

After collecting all the relevant information from abroad, establish appropriate communication with any respective ministries and other systems' relevant establishments to find out the discrepancies between the Canadian educational system and economy and each respective system abroad, estimate the grade of the discrepancies, and put it in each personal record. Sort all the records according to this query and undertake appropriate action, either to move a record toward recognizing it or toward an additional examination process. Contact each person and get their agreement with regard to the next action plan. In the meantime, undertake appropriate action to back up this process with the legal system.

Phase 4: the integration process completion.

As soon as Canadian experience is optimally gained, support sufficiently trained professionals to move toward regular jobs within their professions. Support their job search and, in coordination with respective ministries, fight long-term saturated prejudice and ignorance in the system toward immigration. If possible, give precedence to immigrants in the government's job structure. With the Ministry of Labour, ensure that there is no discrimination in the process of hiring immigrants, and if there are such cases, establish a system for adequate penalizing. For those who need additional education to bridge significant discrepancies, the ministry should make a plan in regard to the procedure and expenses encountered. If possible,

education should be gained by self-teaching in order to reduce expenses. In every possible way, compensate education with experience. For those who want to resume their career in a regulated profession, the government should cover the expenses as well.

After internationally trained professionals are properly integrated into the Ontario system, they can equally compete with native citizens. Their record should stay at the Ministry of Citizenship and Immigration as long as they are not equal competitors on the job market.

The complexity of this issue is so great that it stretches across the whole system. Bill 124, in its present form, cannot solve this complex issue, even with all the amendments. The main problem here is that the main issue elaborated in Bill 124 does not have anything to do with internationally trained professionals and the immigration issue. It's supposed to regulate a totally different area, which is the educational standards of Ontario's regulated professions. When internationally trained professionals are equal to native professionals, only then will they be able to take full advantage of this bill, and there will not be a need to emphasize them as a different group, which is, per se, an issue with a discriminatory nature.

The Chair: You have less than a minute to wrap up

Mr. Todorovic: Okay.

How devastating this inappropriate political approach towards the immigration issue is is best described by the fact that the Canadian economy loses up to \$5 billion every year for not taking advantage of the potential that immigration brings to the country.

I will conclude my presentation with an appeal to this body and all relevant participants in the solution of this issue to turn this matter over to the Ontario Ministry of Citizenship and Immigration for reconsideration and better planning and construction in order for this problem to be solved properly and permanently. A bad patch within for this issue, irrelevant to the bill of the Ontario Legislative Assembly, is not an appropriate mode to execute this plan. This issue needs much more attention and consideration, especially from the Ministry of Citizenship and Immigration, with appropriate contribution from the rest of the government and the system as a whole.

I would like to express my appreciation for the time and effort this political body invested to come to our place and give us ordinary people an opportunity to say what is on our mind. I have a lot more to say, but unfortunately, 10 minutes is too little. I hope I will have more opportunity in my new party, the NDP. Thank you very much.

The Chair: Thank you very much, Mr. Todorovic.

Mr. Klees?

Mr. Klees: I think that a record has just been broken in terms of the speed with which a presentation could be made. I want to commend the presenter for his presentation.

The Chair: Thank you, Mr. Klees.

Our next presenter is Nirmal Takhar. Is Nirmal Takhar here? Okay. Unfortunately, our final presenter must have been taken away with other responsibilities.

At this point, then, I want to thank all of the people who came to committee to make presentations to us today. We appreciate your thoughts and your comments.

Committee members, I just wanted to raise with you the fact that we've received a number of further pieces of information from the legislative library, research and information services. Thanks again to Elaine Campbell for helping us with this information. I'm not going to list it through, because we are running a little bit short of time.

Again, thanks to everyone who came today.

Committee members, we do have reconvening of committee at 3:30 this afternoon, or after question period, anyway, at the Legislature; I believe we're in committee room 1. Thank you all very much for your participation today. We'll see you again this afternoon. The meeting is adjourned.

The committee recessed from 1159 to 1554.

The Chair: Good afternoon, members of committee. I'm going to call the standing committee on regulations and private bills to order. We're here today for clause-by-clause consideration of Bill 124, An Act to provide for fair registration practices in Ontario's regulated professions. This is my first time doing clause-by-clause of a government bill as Chair, so I ask you to be gentle with me. Thank you very much.

We're going to start with a bit of a procedural issue. We have an amendment to Bill 124 that introduces a schedule. Reference is made to that schedule in two or three amendments, so we would need to defer consideration of the sections in order to deal with the amendment that introduces the schedule. If the amendment passes, the amendments that refer to the schedule will be in order. I'm asking for unanimous consent. Do I have the consent of the committee to start with the amendment on page 66 first, which is the introduction of the schedule? Great. Thank you very much.

We'll move to the amendment on page 66 of your packages. This is a government motion.

Mr. Ramal: I move that the bill be amended by adding the following schedule:

"Schedule 1

"Regulated Professions

"Regulated professions named

"1. The following are named as regulated professions to which this act applies:

"1. The Association of Professional Engineers of Ontario.

"2. The Association of Professional Geoscientists of Ontario.

"3. The Association of Ontario Land Surveyors.

"4. The Certified General Accountants Association of Ontario.

"5. The College of Veterinarians of Ontario.

"6. The Institute of Chartered Accountants of Ontario.

"7. The Law Society of Upper Canada.

"8. The Ontario Association of Architects.

"9. The Ontario Association of Certified Engineering Technicians and Technologists.

"10. The Ontario College of Social Workers and Social Service Workers.

"11. The Ontario College of Teachers.

"12. The Ontario Professional Foresters Association.

"13. The Society of Management Accountants of Ontario.

"Application date

2. This act first applies to the regulated professions named in paragraphs 1 to 13 of section 1 on the day section 4 of this act comes into force."

The Chair: Would you like to speak to the motion, Mr. Ramal?

Mr. Ramal: No. We're just specifying the regulatory bodies which we mentioned. We can reference this section many different times, so that's why we did it in the end—in order to make reference to a section, one known by all the members of the committee.

The Chair: Is there any debate?

Mr. Klees: I'd like the parliamentary assistant to give us an explanation as to why they have introduced this schedule.

Mr. Ramal: Why I introduced the schedule?

Mr. Klees: Why you have moved this amendment.

Mr. Ramal: Why I moved it? Because we heard, during the committee, many people ask us to name the regulatory body which we were talking about. That's why we came to name them. Then when we reference our different sections, we'll know exactly what we're talking about.

Mr. Klees: Thank you.

Mr. Tabuns: I just wanted to say that I'm very pleased that we in the NDP asked for this in the first place, in the first round of debate, second reading. I'm glad that we were able to mobilize people in the community to demand it. I think at a minimum this listing should be here. I find it interesting there are amendments further in here to allow the government to remove professions without going to the Legislature for permission, but notwithstanding that section, I think we should go ahead and make sure there is a list of professions in this bill.

The Chair: Any further debate?

Mr. Klees: I want to concur and give credit to Mr. Tabuns for having taken the initiative early on in the discussions around this bill to call for the registration, the listing of the various regulated professions.

We also had submissions that requested that some of the other professions be listed as well that would come into play on this. We'll see how things go here, as to whether the government has listened to that as well. We had an amendment that I will now withdraw—it's 3.1—which we were proposing for the purpose of addressing this very issue.

The Chair: All right. Thank you, Mr. Klees. With no further debate, then, all those in favour? Any opposed? That's carried.

Interjection.

The Chair: The clerk has just asked me to remind members that I'd like to see hands go up on the votes. Thanks very much.

We're now going to go back to section 1 of the bill. I believe we're going straight to page 1 of the package on a government—

Interjection.

The Chair: Sorry, in section 1, there's nothing to be amended. Is there any debate on section 1 as a whole? All those in favour? Any opposed? That carries.

Section 2: We have page 1, which is a government amendment. Ms. Mossop?

1600

Ms. Jennifer F. Mossop (Stoney Creek): I'm going to just act as reader today and then let the PA do—just to save breath and voices.

I move that the definition of "registration decision" in section 2 of the bill be struck out and the following substituted:

"'registration decision' means, without regard to the terminology used by a regulated profession, a decision,

"(a) to grant registration to an applicant,

"(b) to propose that an applicant not be granted registration,

"(c) to not grant registration to an applicant, or

"(d) to grant registration to an applicant subject to conditions; ('decision en matière d'inscription')."

The Chair: Merci. Mr. Ramal, you wanted to debate the amendment?

Mr. Ramal: Actually, if you go back to the original bill, it says "to grant or not to grant," and then "to grant registration." We moved it to strengthen it and to clarify the definitions. Basically, it's a technical adjustment, just to give strength and force to the definition.

The Chair: Any debate, any other members? No. All those in favour? Any opposed? That's carried.

The next, page 2, is an NDP motion.

Mr. Tabuns: My motion is now redundant because we've adopted schedule 1. So I would withdraw it.

The Chair: You're withdrawing? Thank you, Mr. Tabuns.

The next is a government motion on page 3.

Mr. Ramal: I move that the definition of "regulated profession" in section 2 of the bill be struck out and the following substituted:

"'regulated profession' means the body corporate or association that is responsible for the governance of a profession named in schedule 1 to this act; ('profession réglementée')."

The Chair: Did you want to speak to the amendment?

Mr. Ramal: The same thing: just to give more strength to the definitions. That's why we identified those words.

The Chair: Any further discussion on the amendment? All right then, all those in favour? Any opposed? That amendment carries.

Shall section 2, as amended, carry? All those in favour? Any opposed? That's carried.

Page 4 is next. It's a government amendment. It's a new section.

Mr. Ramal: I move that the bill be amended by adding the following section:

"Fair registration practices code

"2.1 The registration practices set out in parts II and III shall be known in English as the fair registration practices code and in French as code de pratiques d'inscription équitables."

Judge Thomson asked to use the word "code" before the definitions to give more clarity and strength. That's why we added it, listening to Judge Thomson's report.

The Chair: Is there any further discussion on this new section? Shall section 2.1 carry? All those in favour? Any opposed? That's carried.

Shall section 3 carry? There are no amendments. Thank you.

Section 4, page 5: We have an NDP amendment.

Mr. Tabuns: This motion is now redundant, given that we've adopted the schedule. So I withdraw it.

The Chair: Thank you, Mr. Tabuns.

Next we have a Progressive Conservative amendment, page 5.1.

Mr. Klees: I want to speak to this.

The Chair: I believe you have to read it into the record first.

Mr. Klees: Okay. I'll do that.

I move that section 4 of the bill be struck out and the following substituted:

"Regulated professions

"4(1) The following are regulated professions for the purposes of this act:

"1. College of Audiologists and Speech-Language Pathologists of Ontario.

"2. Ontario Association of Certified Engineering Technicians and Technologists.

"3. Certified General Accountants Association of Ontario.

"4. The Society of Management Accountants of Ontario.

"5. The Institute of Chartered Accountants of Ontario.

"6. College of Chiropractors of Ontario.

"7. College of Chiropractors of Ontario.

"8. College of Dental Hygienists of Ontario.

"9. Royal College of Dental Surgeons of Ontario.

"10. College of Dental Technologists of Ontario.

"11. College of Denturists of Ontario.

"12. College of Dietitians of Ontario.

"13. Ontario Professional Foresters Association.

"14. Board of Funeral Services.

"15. Association of Geoscientists of Ontario.

"16. Association of Ontario Land Surveyors.

"17. Law Society of Upper Canada.

"18. College of Massage Therapists of Ontario.

"19. College of Medical Laboratory Technologists of Ontario.

"20. College of Medical Radiation Technologists of Ontario.

"21. College of Physicians and Surgeons of Ontario.

"22. College of Midwives of Ontario.

"23. College of Nurses of Ontario.

"24. College of Occupational Therapists of Ontario.

"25. College of Opticians of Ontario.

"26. College of Optometrists of Ontario.

"27. Council of the Ontario College of Pharmacists.

"28. College of Physiotherapists of Ontario.

"29. Professional Engineers Ontario.

"30. College of Psychologists of Ontario.

"31. Real Estate Council of Ontario.

"32. College of Respiratory Therapists of Ontario.

"33. Ontario College of Social Workers and Social Service Workers.

"34. Ontario College of Teachers.

"35. College of Veterinarians of Ontario.

"36. Such other bodies corporate and associations responsible for the governance of professions as are named in the regulations.

"Same

"(2) Despite section 5.1 of the Regulated Health Professions Act, 1991, section 14 and part V apply to the colleges to which that act applies and to applicants for registration by the colleges."

The Chair: Mr. Klees, I thank you for reading it into the record as an amendment, but I hear from the clerk and leg counsel that because the committee has already approved the schedule at the beginning of the proceeding of the committee, the question has already been decided by committee. So I'm going to have to rule this amendment out of order.

Mr. Klees: Well, let me speak to it, though.

The Chair: You can speak to it when we vote on the section.

Mr. Klees: Okay.

The Chair: As it's an out-of-order amendment, it can't be spoken to, but we can do that at the section.

Mr. Klees: I'm happy to do that.

The Chair: Next, we have a government motion on page 6.

Ms. Mossop: I move that section 4 of the bill be struck out and the following substituted:

"Application

"4. This act applies to a regulated profession as of the date set out in schedule 1 for that profession."

The Chair: Do you want to speak to the amendment?

Mr. Ramal: Madam Chair, we decided to name non-health professions in schedule 1 rather than do it in the regulation just to give more clarity, because we've been asked many different times in the committee to name them and be clear about them.

The Chair: Is there any further debate on the amendment?

Mr. Klees: Yes, I'd like to get some clarification here. So we have just approved schedule 1, which is on page 66, which lists regulated professions named.

Mr. Ramal: Yes.

Mr. Klees: And the government's motion listed 13.

Mr. Ramal: Correct—from 34 regulated bodies.

Mr. Klees: From 34. And what I want to clarify now is, what happens to the rest of them?

Mr. Ramal: The rest of them, the regulatory bodies named in the RHPA—there is no need to repeat them. They are already listed in the bill. We don't want to repeat ourselves.

Mr. Klees: Okay. So you just simply preferred not to list them out separately.

Mr. Ramal: No, because they're already incorporated in the bill and repeated under the RHPA.

Mr. Klees: Okay. Thank you.

The Chair: I believe leg counsel has a comment to make.

Mr. Donald Revell: Just to clarify, the colleges under the RHPA are not actually named in the bill, but they are of course named in the RHPA itself. So the colleges are in fact covered by the second part of this bill, which sets out the amendments to the RHPA.

Mr. Klees: And that's what I wanted to cover off. I appreciate that.

1610

The Chair: Any further discussion? All those in favour? Any opposed? That carries.

Shall section 4, as amended, carry? All those in favour? Any opposed? That's carried. Thanks very much. We're now onto page 7, a government motion.

Ms. Mossop: I move that the heading to part II of the act be amended by adding "code" after "practices."

Mr. Ramal: The same thing: Judge Thomson recommended to use "code" many different times. We listened to his recommendations.

The Chair: Thank you. Any further discussion on the amendment? All those in favour? Any opposed? Carried.

Shall section 5, as amended, carry? All those in favour? Any opposed? Carried.

Next is a government motion on page 8. Ms. Mossop.

Ms. Mossop: I move that the heading to part III of the act be amended by adding "code" after "practices."

The Chair: Mr. Ramal?

Mr. Ramal: Same reason.

The Chair: Thank you. Any further discussion? All those in favour of the amendment? Any opposed? That carries.

Page 9 is an NDP motion. Mr. Tabuns.

Mr. Tabuns: I move that clause 6(d) of the bill be struck out and the following substituted:

"(d) a scale of reasonable fees related to registration."

The Chair: Do you want to speak to that amendment?

Mr. Tabuns: I do. Thomson was concerned about the scale of fees that would be charged to applicants for registration. I think that it should be noted in this legislation that the fees should be reasonable. On page 16, Thomson says, "While it is appropriate for regulatory bodies to charge application and registration fees, the amounts should not be so large as to deter qualified applicants. In addition, registration decisions should be processed within a reasonable time." It's the fees that are of concern here.

I note that the Chinese Canadian National Council; the Chinese Canadian National Council, Toronto chapter; the Institute of Chartered Accountants of Bangladesh, North American chapter; the certified management accountants of Bangladesh, Canadian chapter; and the Pakistani Professionals Forum all spoke in favour of ensuring that the word "reasonable" was used in setting the fees so as to make sure that a barrier was not artificially placed in the way of these internationally trained individuals. I would ask all present on this committee to support this amendment.

The Chair: Any further debate?

Mr. Klees: I want to support this amendment and I would hope that the government members would as well, even though it's not a government amendment. I think it simply inserts a reference to the fees being reasonable. I think that we've all experienced circumstances where applicants have come forward—often economic circumstances are difficult enough. If we're really going to address the issue of barriers, the economic barrier is a substantive one and a very practical one. So it's one thing for the government to deal with access and equivalency and all of these other things, but if there's a fee that's put in place and that fee becomes a barrier, I think we've missed the mark. I think it is a reasonable amendment; it's only one word. I would think that government members would see their way clear to supporting this as well.

Mr. Ramal: I think we're going to vote against this amendment because we strongly believe that it doesn't provide any additional value to our structure. We are going to talk about registration fees proposed in the bill later on. We don't see it giving us any additional value, so that's why we're not going to accept it.

Mr. Klees: I would like to know what Mr. Ramal means by this amendment not giving value. Is that what you said?

Mr. Ramal: No. It's not going to provide additional value, because we are going to address the fee issue in our proposed bill later on. So if we accepted this one here, it's going to be in conflict with our addressing the fee issue in registrations later on in the bill.

Mr. Klees: And where would you do that?

Mr. Ramal: When we go to section 18.

Mr. Klees: Section 18. What page is that in our amendments?

Mr. Ramal: It's not an amendment; it's in the original bill. If you go to clause 18(2)(c) of the original bill, you can see it.

Mr. Klees: If I could speak to that, there is a considerable difference here, because what section 18 refers to is a review that is to be undertaken. The review, according to section 18, must include an analysis of the reasonableness of the fees.

We can have an analysis of the reasonableness of the fees and still not end up with a reasonable fee. So if we're going through the process of legislating and sending a clear direction to the professions that we don't want

barriers, to direct them by legislation that their fees should be reasonable only makes sense.

I think Mr. Ramal, if he reads section 18, will understand that it does not do at all what the NDP amendment is trying to accomplish here.

Mr. Tabuns: Mr. Klees is entirely correct. In fact, all that we have here in 18(2)(c) is a report. The Fairness Commissioner can come back and say, "Yes, the fees are unreasonable," end of story. Life goes on. People still don't get to register.

What we're saying is, if you're going to ask for the Fairness Commissioner to report on the reasonableness of the fees, one should require earlier on that the fees themselves be reasonable. In other words, Mr. Ramal, then you find yourself simply reporting on an injustice without addressing it.

Mr. Delaney: Just one short comment: I appreciate the amendment and certainly the spirit within which it's offered. However, the proposed addition—the word "reasonable"—is itself subjective and in and of itself doesn't offer a tangible benefit to that particular clause.

Mr. Klees: If Mr. Delaney is correct, then we're in serious trouble, because the parliamentary assistant relies on the word "reasonable" in section 18 to achieve the same thing. If we can't trust section 18 to give appropriate direction for the review in referring to the reasonableness of fees, then we do have a serious problem.

Look, I understand this process and I understand that government members are directed to come into this committee and to do exactly what their paper in front of them tells them to do. But what I'm going to do is ask members of the government side of this committee to step outside of that for just a bit and look at this. We've all been involved in the hearings. We've all heard from people who have come forward to tell us that they're pleased about the government's bill. What they're pleased about is that it's going to remove barriers. They're asking and expecting that that removal of barriers will be very practical.

What I'm concerned about is that whoever has been preparing your recommendations here in terms of how you should be voting may not have been party to all of those deliberations. The staff don't always take into consideration all of these nuances. That's what you, as members of the government side of this committee, are here to do. I just can't believe that we would move beyond this amendment and not be willing to insert the scale of reasonable fees related to registration here.

Mr. Tabuns: Interestingly, Mr. Ramal, further on in the act you talk about a reasonable length of time for processing an application. I actually put forward an amendment to set a fixed time. But in using the word "reasonable," I relied on legal counsel. I said, "How do I ensure that what we have is something that is defensible, something understandable by the population, something that won't be a barrier?" The best legal formulation that was available to me—and I will ask legislative counsel to address this—was to use the term "reasonable," so that, should there be an outrageous charge, should a charge be

applied that would be a systemic barrier, that could be challenged.

Having made that statement, I would like to ask legislative counsel to speak to the word “reasonable” in these terms and its utility.

1620

The Chair: Mr. Revell?

Mr. Revell: Mr. Tabuns is summarizing correctly what we discussed several weeks ago now on this issue. Indeed, I thought that the word “reasonable” is—if this motion is going to pass, this is the right test. The courts are familiar with the concept of reasonableness, and certainly people like Fairness Commissioners and so on, even if they are not lawyers, are going to quickly become aware of the reasonableness tests that are required and where they have to address their minds to these issues, and they will be given legal guidance.

We may not know “reasonable” until we start looking at an actual schedule, but there are tests for determining “Is this too much?” For example, a reasonable fee can be charged under many pieces of legislation. If a court looks at something and says, “That’s not really a fee anymore. That has become a tax; it’s just too high.” So we do have these kinds of things.

I can’t speak to the policy of the motion, but I can say that I think, if you’re going to pass this motion, this test in fact works.

The Chair: Thank you, Mr. Revell. Mr. Tabuns, is that—

Mr. Tabuns: I think he has expressed it well. Thank you, Mr. Revell.

The Chair: Mr. Sergio?

Mr. Sergio: No; if it is acceptable, I’ll leave it at that. I don’t want to prolong the debate on this. I was going to speak before, but I’ll leave it at that.

Mr. Ramal: As is well known, the fee has always been asked by the regulatory body to cover the cost. It’s not intended for the fee to make a profit. That’s why most regulatory bodies ask for almost the exact fee to cover their costs when they run the examinations and read applications etc. So this is part of the cost.

Anyway, that’s what we believe. We put it in the bill. This would address this issue in the bill.

The Chair: Okay. Any further debate?

Mr. Tabuns: Recorded vote on this. I just find it extraordinary—

The Chair: Hold on, Mr. Tabuns. I think there might be further debate.

Mr. Klees: Chair, I’m not going to let this thing pass easily. Now Mr. Ramal is defending the fee structure and he’s making a presumption that all of the colleges, all of the regulatory bodies, will always do the right thing. That’s just simply not the case, and we know that. If everything was okay, we wouldn’t be here. And if everything was okay, Mr. Ramal, why do you need section 18 in the bill? Why would you direct that a review take place as to the reasonableness of fees charged by a regulated profession? There must be some basis on which you included that in the original bill. I’ll tell you why you

did: because we’ve heard from people saying that it’s a barrier. Right? So that being the case, surely we’re not going to rely on people to always do the right thing. That’s why we’re here. We’re setting out legislation that hopefully, in the end, is going to create better access. That’s the name of the bill, I think. Isn’t that it? An Act to provide for fair registration practices. A fair registration practice means that there’s going to be a reasonable fee, and we should be directing that.

I’m just asking you, Mr. Ramal, to break out of these blinders that you’ve been given by your ministry to just do what they tell you to do on this paper. We’re having a reasonable discussion. You’re a reasonable man. I’ve heard you in the course of these committee hearings. You want to do the right thing. I would like to know: What is unreasonable about this amendment? How will it damage the bill?

The Chair: Mr. Ramal, were you interested in responding?

Mr. Ramal: No.

The Chair: Okay. Further debate, then?

Mr. Tabuns: It’s pretty clear to me that the government has its instructions and it’s going to follow through on those instructions. But I do want to put on the record that to have just moved a series of amendments to insert the words “fair practices code” and then to ignore one of the more fundamental elements of a fair practice—that is to say, the fees have to be reasonable—is quite extraordinary to me and I think shows that the instructions that were given to the government members on this were entirely unreasonable instructions and designed to frustrate the actual breaking down of barriers that has to happen if people are going to get their credentials recognized.

I don’t think there’s a lot more to say. I think there should be a recorded vote. But I think you should go back to the minister after this and just say, “You made a bad call on this one.”

Mr. Klees: I’m sorry, Mr. Tabuns, I don’t want to scuttle your recorded vote.

Mr. Tabuns: We don’t have to have it right now.

Mr. Klees: I want to be helpful here, and here’s what I’m going to suggest. I believe that when the minister has an opportunity to look at this question, I believe the minister would agree with us as well. I also understand the box that you’re in, in terms of the direction that you have, and that you don’t want to get into trouble when you leave here.

I’m making a reasonable suggestion here. Why don’t we set this amendment aside and give you an opportunity to speak to the minister about it, and we can deal with it at the end?

The Chair: Standing down requires unanimous consent. Is there unanimous consent? No.

There has been a recorded vote requested. Is there any further debate on this? All right, then I’ll call for the vote.

Ayes

Klees, Tabuns.

Nays

Delaney, Leal, Mossop, Ramal, Sergio.

The Chair: The amendment is lost.

I believe that completes this section. Shall section 6, as amended, carry?

Mr. Klees: Recorded vote.

Ayes

Delaney, Leal, Mossop, Ramal, Sergio.

Nays

Klees, Tabuns.

The Chair: The section, as amended, carries.

Next we have 9.1, which was the additional—I'm sorry, Mr. Sergio?

Mr. Sergio: Excuse me, did you say "as amended"?

The Chair: Yes, I did.

We have the one that was added, 9.1, which is a government motion.

Ms. Mossop: I move that section 7 of the bill be amended by adding the following clause:

"(0.a) notify applicants when their applications are complete and it has received all supporting documentation;"

The Chair: Does anyone want to speak to that amendment?

Mr. Ramal: That's fine.

The Chair: Is there any debate on the amendment that was brought forward?

Mr. Klees: I have a question as to why we wouldn't have included in here "notify applicants in a reasonable time when their applications are complete." We've heard many submissions over the course of the hearings that there's often a delay, that information isn't returned in a timely manner. This is an opportunity, while we're at the point of drafting legislation, to include some signal that we expect a reasonable turnaround of this information.

I would just like to know from the parliamentary assistant why the government chose not to seize the opportunity and become much more directive here and send that signal of a reasonable turnaround.

The Chair: Thank you, Mr. Klees. I'm not sure if Mr. Ramal is in a position to respond.

Mr. Klees: No, no. I'm asking him to respond, Chair.

The Chair: It's actually Mr. Ramal's pleasure whether he determines it an opportunity to respond or not.

1630

Mr. Ramal: Madam Chair, Ms. Mossop read section 7. We would like to withdraw that section. Is that possible?

The Chair: That would have to be done by Ms. Mossop, then. Are you withdrawing the amendment, Ms. Mossop?

Ms. Mossop: I will withdraw the amendment.

The Chair: Okay. Then 9.1 has been withdrawn, and we move on now to—

Mr. Tabuns: Can we have an explanation as to why it has been withdrawn?

Mr. Ramal: We think this one doesn't go in line with our structure of the bill. That's why we withdraw it. It doesn't make sense. After we pass several sections, this section will go in detail in a different section of the bill, so there's no need to repeat it in here.

Mr. Tabuns: Okay.

The Chair: Thanks very much.

Procedurally, I hear from the clerk that it's appropriate to reverse the order of the next two motions, so page 11 would be the next one that we look at, and it would come first. That's an NDP motion.

Mr. Tabuns: I move that the bill be amended by adding the following subsections:

"Extension of time

"(2) A regulated profession may, from time to time, extend the time for making a registration decision if required documentation is not available to it or, if for reasons beyond its control, it is unable to complete its assessment of an application.

"Same

"(3) The regulated profession shall not extend the time for making a registration decision by more than three months at a time and it shall give written reasons to the applicant at the time of making the extension."

I'll talk to this, Madam Chair, when you're ready to have me talk to it.

The Chair: Certainly. Go ahead.

Mr. Sergio: Madam Chair, before he speaks, are we reading motion number 11?

The Chair: Page 11, Mr. Sergio.

Mr. Sergio: For clarification, I heard Mr. Tabuns at the end of clause 2 saying, "of an application." It's "of an applicant." May I have that—

The Chair: Would you like to clarify, Mr. Tabuns? I noticed the same thing. The clerk told me it wasn't necessary to have it done over, but if you would prefer that, that's not a problem: just that word at the end of subsection 2 that you introduced.

Mr. Tabuns: "Applicant": to complete its assessment "of an applicant."

The Chair: Thank you very much. Is that all right, Mr. Sergio?

Mr. Sergio: Thank you.

The Chair: All right, then. Did you want to speak to that amendment, Mr. Tabuns?

Mr. Tabuns: Very simply, there has been a concern expressed by quite a few people, both directly at this committee and also to me personally, that the processing time for applications is a concern, and there was not enough comfort, people felt, with simply saying "reasonable time." They wanted an outside limit. I consulted

with legislative counsel on what was a time that courts would see as reasonable as an outside limit. Six months seemed to be a very reasonable time for any organization to process an application. It seems long to me, but let's, for the sake of argument, give them that time. If it takes beyond that, it's in three-month increments and they have to give explanations as to why things are being held up.

It really does go in concert with my next amendment, which is to say that there's a six-month time limit on applications, but this gives the potential or the power to have extensions should there be extenuating circumstances. I think, again, it's reasonable for us to have in a fair practices code an envelope within which decisions should be made, a discipline imposed on regulatory bodies, so that there is a very clear expectation that these applications will be dealt with in an expeditious manner.

The Chair: Is there any further debate on this amendment?

Mr. Klees: I just want to speak in support of this amendment. I agree with Mr. Tabuns. Again, to be practical, we understand there are going to be delays, but there also should be some framework. We should know what the outside limits are. There should be no reason why there wouldn't be a response, and for that reason, I would support this.

Mr. Ramal: I think both members know we have 34 regulated bodies, and every regulated body has a different time table, a different requirement. So I think it doesn't work. They have various requirements, various acceptance times, so we cannot just set up one time frame for all of them. I think it wouldn't be fair. That's why we said "reasonable" instead of setting out the time frame.

The Chair: Is there anything further?

Mr. Tabuns: I'll just say that six months is a long time. Land surveyor, one would think, could process that more quickly than a doctor. But I would say six months is a good length of time—half a year—to go through an application and determine what sort of background documentation sufficiency or insufficiency exists. I don't think it's an unreasonable length of time. In fact, some would say that it's too long. But I would say, if we say six months, as I've said in the next motion, and providing for three-month extensions and reasons for those extensions, that gives applicants a sense of the envelope within which these time lines are going to be contained. And I would say that to simply use the word "reasonable" is not to give people enough comfort on this one.

Mr. Klees: Our worst fears are starting to show. We've just spent a number of weeks on the road. We've had people come here with great expectations about this bill. We've warned them not to get their hopes up too high, because it's one thing to have a photo op and make a media announcement about all of the access that they're going to have as a result of this bill—and we said from the very beginning, what is missing in this bill are the details. The wiggle words that are being used are not going to help address the very issues that people came to us with, and that is that it takes too long and it costs too much. What this amendment does is try to put some time

limits in, and the parliamentary assistant is going back again to basically saying, "It's all up to them. We've got 34 different colleges. They're all going to do things differently." Well, that's exactly why we're here. We want them to comply with certain time frames and time lines. So for the government not to accept this is just a signal I'm afraid to the public out there that what we've got here is something nice and out there for public consumption, but in terms of what it's actually going to do for them, it's not going to measure up unfortunately.

The Chair: Is there any further debate?

Mr. Tabuns: Recorded vote.

The Chair: A recorded vote has been requested on the NDP motion on page 11.

Ayes

Klees, Tabuns.

Nays

Delaney, Mossop, Ramal, Sergio.

The Chair: The motion fails.

The next one, then, is back to page 10, which is an NDP motion.

Mr. Tabuns: I move that clause 7(a) of the bill be struck out and the following substituted:

"(a) subject to subsection (2), ensure that its registration decision is made within six months of receiving an application for registration";

I believe the arguments have been made, at least on my part. Others have debate, and that's fine by me. At the end of the debate, I'd ask for a recorded vote.

The Chair: Any debate on the motion?

Mr. Ramal: Same reason.

Mr. Klees: I'll give the same reason as well. I think it's a failure on the part of the government to do something practical here.

Mr. Ramal: That's what we're doing.

Mr. Klees: So we do want a recorded vote, and it will show the government voting against something that—I mean, if people can't expect an answer in six months, what are we doing here? What is this all about? It's a sham. Recorded vote.

The Chair: A recorded vote has been requested on the motion on page 10.

Ayes

Klees, Tabuns.

Nays

Delaney, Mossop, Ramal, Sergio.

1640

The Chair: That motion fails.

That takes us to the end of section 7. Shall section 7 carry? All those in favour? Any opposed? That carries.

Next, on page 12 is an NDP motion.

Mr. Tabuns: I move that section 8 of the bill be amended by adding the following subsection:

“Reasons for decisions

“(3.1) Except when unconditional registration is granted, a regulated profession shall give reasons for its decisions in its registration decisions and in its internal review or appeal decisions and the applicant shall be given notice of the decision in his or her case and a copy of the reasons within 30 days of the decision being made.”

The Chair: Would you like to speak to that amendment?

Mr. Tabuns: I would. Judge Thomson in his recommendations, in the text of his report, said, “An understandable decision, with reasons, in plain language and linked to published criteria will help applicants to understand the basis for a decision.” Frankly, if we want to make sure that people know what’s going on, they need to have those written decisions explaining why a decision was reached and they need to have it within a reasonable period of time. I would urge the government, in the spirit of having a fair registration practices code, actually adopt this recommendation.

The Chair: Is there any further debate?

Mr. Ramal: I guess we have another motion to speak to a part of Mr. Tabuns’s motion. We already talked to the first part and made a different motion, which we rejected, in terms of a time frame for the decision and applications. That’s why we’re going to reject that motion and we have another motion that’s going to come later on.

Mr. Klees: Where is it?

Mr. Ramal: 12.1.

The Chair: It was part of the other package with 9.1, the add-on. It came afterwards. It’s not in the actual stapled package.

Mr. Ramal: It came separately.

Mr. Tabuns: But, Madam Chair, what’s being proposed is page 12 versus page 12.1. Page 12.1 doesn’t talk about timelines. It doesn’t talk about the written reasons. It does say that an applicant shall have the right to request a review of or appeal from a decision. That’s useful in its own right. It doesn’t contradict my motion. It could stand on its own. I’m moving that people be given detailed reasons that they can understand within a set time frame, which is an entirely reasonable part of a process. So I would hope that the government would have no difficulty supporting this, just as I think it’s reasonable that people have an opportunity to know that they can appeal a decision that has come forward.

The Chair: Is there any further debate?

Mr. Klees: Well, once again, I think to turn this amendment down because there’s a subsequent motion by the government—the two are totally unrelated. Page 12.1, the government motion you’re referring to, Mr. Ramal, simply states that “A regulated profession shall inform an applicant of any rights the applicant may have to request a further review....” What kind of comfort does that give to an individual who’s having difficulty

accessing information about why he or she is not being processed or maybe has been turned down? All your motion does is say that they’ll inform the applicant of any rights they have. You’re not even saying they have rights. You’re simply saying they’ll be informed of any rights that they may have, not shall have. Do you understand?

Mr. Ramal: I understand.

Mr. Klees: Well, it’s sad, because I think you’re going to disappoint a lot of people who have an expectation that Bill 124 is going to remove barriers and give them some access to information. One of the biggest complaints I’ve had, and probably you too, from people who are going through the process now is that they’re turned down and they don’t know why. No reasons are given so that they can make some adjustments and learn perhaps from the first application process that they’ve gone through or the first interview that they’ve gone through.

What we’re trying to do, I thought, through Bill 124, is give people some practical help to access professions. One practical way to do that is to ensure that they have feedback and information about how they’re conducting themselves, where the improvements need to be made and where they’re failing. If you’re not prepared to provide that kind of information within a reasonable period of time—in this case I think 30 days is a reasonable period of time—I fail to understand how you can continue to claim that Bill 124 is going to have any practical help at all for people who are desperately looking for assistance from this bill.

The Chair: Is there any further debate?

Mr. Tabuns: No, but we’d like a recorded vote.

The Chair: A recorded vote has been requested on the amendment on page 12.

Ayes

Klees, Tabuns.

Nays

Delaney, Mossop, Ramal, Sergio.

The Chair: I declare the motion defeated.

Next is the government motion 12.1.

Mr. Ramal: I move that section 8 of the bill be amended by adding the following subsection:

“Information on appeal rights

“(3.1) A regulated profession shall inform an applicant of any rights the applicant may have to request a further review of, or appeal from, the decision.”

The Chair: Would you like to speak to that?

Mr. Ramal: We’ve spoken about this issue several times. When Mr. Tabuns spoke about his motion on page 12, he mentioned two sections talking about the time frame and the decisions. In this section, we provide for the decisions, which I think every applicant has a right to ask for.

Mr. Klees was talking about how we can ensure that people are being treated fairly and have access to the regulated professions. That's why we brought this bill forward, Bill 124, to appoint the Fairness Commissioner to oversee the conduct of the regulatory bodies. That's why we brought this forward, to make sure that people's rights are being protected.

The Chair: Thank you. Any further debate?

Mr. Tabuns: Just commentary from legislative counsel. I've got an amendment, page 13, subsection (3.2) and this is subsection (3.1). If (3.1) is adopted, does that knock (3.2) out of the running?

The Chair: Can you repeat that?

Mr. Tabuns: I just want to make sure that if (3.1) is adopted, that it does not make (3.2) a redundant motion.

The Chair: Can I ask for an opinion on that, Mr. Revell?

Mr. Revell: I would think it would make it redundant because subsection (3.1) as proposed by the government motion deals with the very issues about informing the applicant of rights and appeal rights. So I think that indeed it would be out of order.

Mr. Tabuns: Thank you for that advice. Then, I'd like to speak, Madam Chair.

The Chair: All right.

Mr. Tabuns: I think that it would make more sense for people to adopt my amendment on page 13, which informs people of their rights for review or appeal on any registration decision or decision of an internal review or appeal. This amendment (3.1)—

Mr. Ramal: It's the same thing.

Mr. Tabuns: —is limited, although I think I know a way I can get around this. I will put it to folks this way. I think that people do need to know that they have the potential to appeal, because it's been my experience, having had meetings in my riding on this issue, that very few people know that there are any appeal mechanisms in any professional area. They think if you're turned down for registration, that's it. Game over, time to move on. So I think people do have to be informed of their rights to further appeal when the decision is given to them.

1650

The Chair: Is there any further debate?

Mr. Ramal: The same analogy applies in this section.

The Chair: Okay. Then if there's no further debate on 12.1, the government motion—

Mr. Klees: Recorded vote.

The Chair: There's been a request for a recorded vote.

Ayes

Delaney, Leal, Ramal, Sergio.

Nays

Klees, Tabuns.

The Chair: That amendment carries.
Page 13, the NDP motion.

Mr. Tabuns: I move that section 8 of the bill be amended by adding the following subsection:

"Information on appeal rights

"(3.2) A regulated profession shall inform an applicant of his or her rights to a review or appeal at the time it notifies the applicant"—and I'm going to remove a few words here—"of a decision in an internal review or appeal."

Madam Chair, I'm going to assume that we will have debate on independent tribunals covering applications. It mightn't be a bad idea to hold this one down until we go through the whole question of external independent tribunals, because this would become relevant after that debate takes place.

The Chair: So if I can just be sure, Mr. Tabuns, are you standing this down?

Mr. Tabuns: I'd like to stand it down until we go through the whole debate on independent tribunals.

Mr. Ramal: Unanimous consent?

The Chair: Do we need unanimous consent for standing it down? The way this works, Mr. Tabuns, is that you can withdraw it until the question is put.

Mr. Sergio: Wasn't it declared redundant because we dealt with 12.1?

Mr. Tabuns: Yes, but I have amended it.

The Chair: It's been amended.

Mr. Sergio: You're amending your own—

Mr. Tabuns: Yes.

The Chair: We'll need something in writing to ensure that the clerk makes copies.

Mr. Tabuns: I can do that.

The Chair: Okay. My advice from the clerk is that you can withdraw it temporarily until we get to the end of the section, but once the section has been approved by committee, you'll need unanimous consent to reopen it.

Mr. Tabuns: I see. Okay. I will do that, because that's the logical path. I'll withdraw it until we get to the end of the section.

The Chair: Okay. All right, then.

Mr. Sergio: I think we should agree. I'm not so sure that it's going to get unanimous consent at the end to reopen it. I'm just playing the devil's advocate.

The Chair: Any time before we actually vote on this section as a whole, he can bring it back. Once we've gone to the final vote on this section—

Mr. Sergio: Before we vote, okay.

The Chair: That's right. Okay? Thanks very much.

Mr. Tabuns: Fair enough. Thank you. I appreciate that.

The Chair: We then go to page 14, which is a government motion.

Mr. Ramal: I move that subsection 8(4) of the bill be struck out and the following substituted:

"Same

"(4) No one who acted as a decision-maker in respect of a registration decision shall act as a decision-maker in an internal review or appeal in respect of that registration decision."

I think this motion is very clear: to give strength and fairness to that section and to clarify it. I think it's important to mention that the judge cannot be a judge and at the same time be the victim or the criminal.

The Chair: Any further debate? No? Then on the amendment, all those in favour? Any opposed? That carries.

We next have 14.1. Mr. Klees.

Mr. Tabuns: Could I actually ask Mr. Klees—sorry, Madam Chair. Mr. Klees, I see your motion as—

The Chair: The motion is not even on the floor yet, Mr. Tabuns.

Mr. Tabuns: Rather than having him read it out and then speak to it—

The Chair: That's the better process.

Mr. Tabuns: All right. My apologies, Madam Chair.

The Chair: Mr. Klees, number 14.1

Mr. Klees: Mr. Tabuns wanted to save me some breath, is that it?

Mr. Tabuns: All of us.

Mr. Klees: I move that section 8 of the bill be amended by adding the following subsection:

"Independent appeals

"(5) A regulated profession shall have an independent appeals tribunal however designated and, if the Fairness Commissioner is of the opinion that the regulated profession does not have an independent appeals tribunal, he or she may order that it establish one in accordance with the provisions of the order."

The Chair: Did you want to speak to that, Mr. Klees?

Mr. Klees: Well, I'll set out the rationale for it. In keeping with the spirit of Justice Thomson's recommendations concerning a third-party assessment, this measure would ensure that the regulatory bodies create an independent review capacity. My intention was to keep it broad so that, again, we rely on the Fairness Commissioner and his wisdom, but that the legislative authority is there to ensure that the third-party appeal tribunal is available.

The Chair: Is there any debate?

Mr. Ramal: We don't think there's a need for an independent tribunal, because the fairness commission has the right, in this bill, to open an investigation about any misconduct. It would be redundant and there would also be a duplication and it would create more paperwork.

The Chair: Any further debate?

Mr. Tabuns: I understand the intent of Mr. Klees here. I would prefer to debate and vote on my amendment first, because I think it takes a position that is more clearly differentiated from the government and says to set up an independent tribunal in any event comparable to the health professions review board. If it would be possible to debate mine first—I like yours as a fallback to mine.

Mr. Klees: You're very gracious.

Mr. Tabuns: I know it's very gracious. I couldn't think of a better way to put it.

The Chair: Unfortunately, we do have this one on the floor.

Mr. Klees: I have a feeling that neither of ours are going to pass with this government.

Mr. Tabuns: You know, I'd be willing to put 10 bucks on that.

Mr. Klees: There's a trend developing here.

Mr. Tabuns: Yes.

The Chair: Okay.

Mr. Klees: I'm happy to set mine aside and have Mr. Tabuns present his.

Mr. Tabuns: Yes, if you don't mind. Page 15.

The Chair: So stand that one down until just before the end of the section? But we now have a situation where our next motion is stood down; the next motion, on page 15, is dependent on the motion on page 22, which means you would have to—the clerk tells me that the best way to procedurally deal with this is to stand down the rest of sections 8, 9, 10 and 11 and then go to section 11.1 and 11.2, which are new sections introduced on page 22. In order to do that, we need the consent of the committee to stand down all of those sections, deal with this section on page 22 and then go back. Do we have unanimous consent to do that?

Mr. Ramal: No.

The Chair: I'm sorry; we had an agreement.

Now we go to page 22 in the package, which is an NDP motion.

1700

Mr. Tabuns: I move that the bill be amended by adding the following part:

"Part III.1

"Appeal board

"Appeal board established

"11.1(1) An appeal board is hereby established to conduct hearings and reviews and to perform the duties assigned to it under part III.

"Official name

"(2) The appeal board shall be known in English as the Regulated Professionals Appeal Board and in French as la Commission d'appel des professions réglementées.

"Composition

"11.2(1) The appeal board shall be composed of at least 12 members who shall be appointed by the Lieutenant Governor in Council on the recommendation of the minister.

"Term of appointment

"(2) Members of the appeal board shall be appointed for terms not exceeding three years.

"Chair and vice-chairs

"(3) The Lieutenant Governor in Council shall designate one member of the board to be the chair and two members to be vice-chairs.

"Additional vice-chairs

"(4) The chair may from time to time designate additional members to be vice-chairs.

"Replacement of members

"(5) A person appointed to replace a member of the appeal board before the member's term expires shall hold office for the remainder of the term.

"Reappointments

"(6) Members of the appeal board are eligible for reappointment.

"Qualifications of members

"(7) A person may not be appointed as a member of the appeal board if the person,

"(a) is employed in the public service of Ontario or by a crown agency as defined in the Crown Agency Act; or

"(b) is or has been a member of a regulated profession.

"Appeals: duty of minister

"(8) The minister shall ensure that the appeal board has appropriate resources to quickly consider and decide on any internal review or appeal of a registration decision."

The Chair: Did you want to speak to that amendment, Mr. Tabuns?

Mr. Tabuns: Oh, I do. Thank you, Madam Mayor—Madam Chair. Sorry; too long on city council. What can I say?

The Chair: I think the mayor probably makes more money than we do, so I'd take that.

Mr. Tabuns: Yeah, well, I'm hearkening back.

It's been fascinating for me to actually read many of the documents that were provided to us in the course of this process. The report of the organization PROMPT, Policy Roundtable Mobilizing Professions and Trades, titled *In the Public Interest*, cites a study done in 1989. The provincial government's Task Force on Access to Professions and Trades in Ontario detailed the barriers that internationally educated people faced in accessing employment in their field—that's 1989, David Peterson—including "insufficient or non-existent avenues for appealing decisions by the professional licensing body." So in 1989, even then, it was recognized that having an independent tribunal was of consequence in this whole process, was something that was needed to deal with the blockage that people were encountering when they tried to get recognition of their certification.

In 2004, the Honourable Mary Anne Chambers, Minister of Training, Colleges and Universities, in response to a question from Kathleen Wynne, talked about what's needed to make sure that people can get into the professions that they've been trained for. She said, "I do want to say that I've been working with the regulators over the past several months, and many of them are making really good progress. But it is a fact that the processes vary greatly from one regulatory body to another. Very recently I appointed former Ontario Justice George Thomson to review all these processes and the appeals opportunities that go along with these processes. I have asked him to recommend to me an appropriate process for independent appeals." So the minister at the time, October 18, 2004, recognized that independent appeals were of consequence, were needed to actually deal with logjams and barriers.

In his report back, Judge Thomson said that in fact he was asked to—well, I'll read his whole sentence: "In her referral of September 2004, Minister Chambers asked me to examine current appeal processes for registration or licensure decisions made by professional regulatory bodies of Ontario's self-regulated professions and to make recommendations for independent appeal mechanisms."

So when we sit down today to start working through these issues, we should know that in 1989, 17 years ago, it was recognized that independent tribunals were needed to break the logjam. When Mary Anne Chambers, in 2004, talked about what was needed to actually make sure that people could access these professions, she appointed Judge Thomson to bring forward recommendations for independent appeal mechanisms. Pretty straightforward, I'd say. There's a track here. And we're coming up to a bill that should be introducing independent appeal mechanisms.

Ontario's Regulators for Access, in 2003, a bit before Mary Anne Chambers, wrote in—let's see, which one is this?—Brower, *Immigrants Need Not Apply*, Ottawa, Caledon Institute of Social Policy, "Another common problem facing the foreign-trained ... is the lack of institutionalized, arm's-length mechanisms for reviewing an occupational regulatory body's decision to refuse a licence or certificate."

In other words, we've had, pretty steadily, recommendations by bodies responsible to the provincial government under the Peterson government. We've had a request from the minister, Mary Anne Chambers, in the time of this government. And today we have a bill that doesn't include independent appeal boards—not at all.

When we go through the bodies that came before us and said, "You need an independent tribunal," we had the Registered Nurses' Association of Ontario; the Canadian Tamil Congress; PROMPT; the Chinese Canadian National Council; the Chinese Canadian National Council, Toronto chapter; the CMAs of Bangladesh; Ontario Federation of Labour; Metro Toronto Chinese and South-east Asian Legal Clinic; a very eloquent statement by Dr. Joseph Wong of Yee Hong; Pakistan Professional Forum; Windsor Women Working with Immigrants; OCASI. It's very clear that for 17 years, probably longer, we've known that we need independent appeal tribunals to deal with the problem that we face in society, and yet it has not been incorporated into this bill.

I think the government should act on statements made, frankly, in the time of David Peterson, should act on the requests of Mary Anne Chambers, minister at the time, should act on the requests of many substantial national organizations that represent communities of consequence, organizations that represent internationally trained professionals, and should adopt this recommendation to have an independent tribunal. If you don't have that, then the core of this bill will be hollow.

I would ask you to act on the stream of thought that the Liberal Party has carried now through the last two

decades and implement an independent appeal board within this legislation.

The Chair: Thank you. Further debate?

Mr. Ramal: Well, whatever Mr. Tabuns said in his motion is great, it might help a few people, but our objective and our goal are to help thousands and thousands of people who are trying to be accredited in the province of Ontario. Therefore, if this bill passes, we'll appoint a Fairness Commissioner who's going to make sure the registration practice is transparent and accountable and objective.

The Chair: Mr. Tabuns?

Mr. Tabuns: It's interesting you should say that, Mr. Ramal. Judge Thomson talked about the importance of independent appeals, and he said, "Well-developed, transparent, independent appeal mechanisms enhance public confidence in the overall registration process. Independent appeals constitute an accountability mechanism that fosters due diligence and promotes high-quality internal procedures and a concerted effort to avoid or remedy errors so that appeals will not be launched. Further, although access to the courts is available in all regulated professions, through either statutory appeal or judicial review, it is not a practical or affordable remedy for many parties."

In other words, Judge Thomson understands that argument you've just made. He thinks you do need to serve thousands, you do need to protect thousands, and the way to do that is to set up an accountability mechanism that means that regulators, administrators and colleges know that if they make mistakes, there will be an appeal process where these things will be sorted out. In fact, Judge Thomson notes that many of those colleges and registrars who already operate with independent tribunals think those independent tribunals enhance the quality of their work because they have a better understanding of how their decisions will be interpreted.

So I don't see where you have logic on your side. You may decide you don't want to do it, and then again I say you have a hollow bill, a bill without a core, but you don't have logic on your side, if you're talking about protecting thousands.

1710

The Chair: Further debate?

Mr. Klees: I will make my comments, if I could. Once again, on the issue of the appeal board, I have to agree with Mr. Tabuns that the government is side-stepping this issue. There is nothing to lose here. It's very consistent with not only Justice Thomson's recommendation, but past thinking on this issue. As well, if the public hearing process is to be meaningful at all, we just have to go through the lengthy list of witnesses who came forward asking for this because they know what happens out there.

I don't want to prolong this discussion, because it's very clear that the government has made up its mind, but once again, it gets back to what the public's expectation was about what this bill will do for them, that they will be empowered. That really is what we heard from people

over and over and over again, that they feel weak coming forward, that they're intimidated by many of these boards, and that they were looking for the government to empower them. You're not, and it's unfortunate.

The Chair: Any further debate?

Mr. Tabuns: Recorded vote.

Ayes

Klees, Tabuns.

Nays

Leal, Mossop, Ramal, Sergio.

The Chair: That amendment fails.

So we go back, if I'm not mistaken, to page—

Mr. Ramal: Page 15.

The Chair: Okay. There were a couple that were stood down. We would have to deal with those now, if they were to be dealt with. So it would have been 15 and then 14?

Mr. Klees: Page 14.1.

The Chair: Okay: page 15, which is the NDP motion.

Mr. Tabuns: I think we've made the arguments.

The Chair: All right. On page 15, then, any further debate?

Interjection.

The Chair: All right: 15 was dependent on 22, so in fact 15 doesn't really make sense without us having passed 22.

Mr. Tabuns: Withdrawn.

The Chair: Mr. Tabuns withdraws number 15.

So then, if I'm not mistaken, we're on 14.1. Mr. Klees.

Mr. Klees: This is the last opportunity the government members have to redeem themselves on this issue of an independent appeal. Mr. Tabuns wasn't able to get his. I predicted that I probably wouldn't get mine, but let's put it to a vote.

Mr. Tabuns: And have it recorded.

Mr. Klees: Let's see a recorded vote.

The Chair: Is there any further debate on 14.1, Mr. Klees's amendment?

A recorded vote has been requested.

Ayes

Klees, Tabuns.

Nays

Leal, Mossop, Ramal, Sergio.

The Chair: That amendment fails.

Next, then, I believe we are going to the section—or is there another stood down?

Page 13 must be dealt with now, prior to the section being completed.

Mr. Tabuns: In fact, we have the same problem. If the other amendments have not been made, then this would be a motion in a vacuum. So I would withdraw it.

The Chair: Thank you, Mr. Tabuns. The motion on page 13 has been withdrawn.

So, members, I believe we're now at the point of doing the section as a whole, if I'm not mistaken.

On section 8, as amended: All those in favour? Any opposed? That's carried.

Section 9: page 16. We have an amendment by the New Democratic Party.

Mr. Tabuns: I move that subsection 9(2) of the bill be amended by striking out "take reasonable measures to."

This actually is meant to strengthen the standard to which regulatory bodies should hold their third parties that make assessments. As it reads now, the wording is "shall take reasonable measures." And with that deletion, we have "it shall ensure that the third party makes the assessment in a way that is transparent, objective, impartial and fair."

We have had comments from a number of groups that came before us concerned that they saw a different standard for in-house and third-party assessment of qualifications. This amendment is meant to eliminate that difference in standard and ensure that third parties are held to as high a standard as internal processes for assessing applications.

The Chair: Thank you, Mr. Tabuns. Any debate on this amendment? No? All those in favour, please indicate.

Mr. Tabuns: Recorded vote.

Ayes

Klees, Tabuns.

Nays

Delaney, Leal, Mossop, Ramal, Sergio.

The Chair: The amendment fails.

Next is a government motion.

Mr. Ramal: I move that subsection 9(2) of the bill be amended by striking out "retains" and substituting "relies on."

The Chair: Did you want to speak to that amendment, Mr. Ramal?

Mr. Ramal: With "retains" and "relies on," there is a big difference in terms of language. With "rely," you can assist or take assistance from a third party, but when it's "retains," it means you're required to hire people and pay money.

The Chair: Any further debate?

Mr. Tabuns: Sorry. I didn't quite understand you, Mr. Ramal.

Mr. Ramal: Well, we think "relies on" is more inclusive of all the arrangements between the regulated professions and the third party. So that's why we replaced "retains" with "relies on."

Mr. Tabuns: I understand now. Thank you.

The Chair: Any further debate? All right, then. On the motion, all those in favour? Any opposed? That motion carries.

Next, page 18: an NDP motion.

Mr. Tabuns: I move that section 9 of the bill be amended by adding the following subsection:

"Examinations

"(3) A regulated profession shall establish an examination review committee that shall review all examinations and other tests, including questions to be asked at oral interviews, to ensure that the examinations and other tests are non-discriminatory, anti-racist and culturally sensitive."

Interestingly, in the PROMPT report, they cite two sources for concern about the attitudes that may be reflected in examinations or assessments, talking about key informants whom they interviewed in the course of putting together their report in the public interest, a report that was written to analyze why internationally trained individuals or professionals were not actually able to get recognition of their credentials.

The PROMPT organization in the report notes, "Two key informants in particular also expressed a concern that there is 'much discrimination' towards certain countries," which is a great concern for them. But they also cite Mary Cornish. Mary Cornish, Elizabeth McIntyre and A. Pask wrote, for the Canadian Labour and Employment Law Journal in 2001, *Strategies for Challenging Discriminatory Barriers to Foreign Credential Recognition*. Mary Cornish and her co-authors—and I quote here from PROMPT—"give perhaps the most pointed description of the systemic nature of access barriers. They contend that the barriers faced by internationally educated professionals have been seen to constitute 'systemic discrimination' on the basis of 'at least their place of origin and arguably also, depending on the facts, on the basis of their ethnic origin, ancestry, race, colour and/or gender.'" 1720

We have a problem here in some quarters. I'm not going to suggest it's all quarters, but I certainly think that there's enough of a problem that it's a concern to the community of new Canadians who are trying to get their credentials recognized. The Metro Toronto Chinese and Southeast Asian Legal Clinic and the Chinese Canadian National Council Toronto chapter also expressed great concern that, in the course of ensuring that the examinations were fair and would not discriminate, they needed to be assessed. So this recommendation, this amendment, follows on both the commentary in PROMPT and the commentary that was put forward by groups who came and spoke to this committee. I think if we're actually going to deal with systemic barriers in a rigorous way and an effective way, we have to start incorporating these kinds of requirements in this legislation, so I move adoption of this motion.

The Chair: Further debate?

Mr. Ramal: I guess Mr. Tabuns goes back to the original bill, clause 18(2)(a). You can see the explanation

already in the bill of whatever you mentioned in your motion. In 18(2)(a) it says, "the extent to which the requirements for registration are necessary for or relevant to the practice of the profession." It's speaking in detail on how we can include all the people and make sure all the legislation is dealt with in a fair way.

Mr. Tabuns: Mr. Ramal, I think you're being extraordinarily generous with the wording in the bill. It is the nature often of discrimination, and new Canadians from different parts of the world would know better than me, that discrimination can be subtle, discrimination can be buried within viewpoints that many people consider extraordinarily objective and fair. It takes conscious effort and analysis to clarify what's going on, to bring out the issues, to put them on the table and to ensure that they're addressed in the way they have to be addressed. I don't think we would have had the lawyer from the Metro Toronto Chinese and Southeast Asian Legal Clinic speaking about the need for this if she felt that the act already addressed the problem; the same with CCNC Toronto chapter. They're fairly sophisticated folks. They know the discrimination that southeast Asians face in this society. They want it addressed. I think they had a fairly reasonable approach and wording. This gives you a far more thorough mechanism for getting at discrimination in examinations than 18(2)(a), which simply says, "the extent to which the requirements for registration are necessary for or relevant to the practice of the profession." That doesn't deal with discriminatory attitudes that do, in fact, exist in this society—regrettably, depressingly, but they're there.

The Chair: Any further debate?

Mr. Klees: I certainly support this amendment. I want to draw the committee's attention to a submission that we had this morning in Hamilton by Professor Harish C. Jain, a professor emeritus at De Groote School of Business at McMaster University. I found his submission most interesting, and he addressed this very issue. I'd like to just read into the record what he said about this very section of the bill, Mr. Ramal, that you suggest covers this off.

"It is very important to define terms such as 'transparent, objective, impartial and fair' in the bill itself, sections 5, 9(2). These terms can lead to different interpretations by the regulated professions, the Fairness Commissioner, immigrants or to be put in regulations. The latter ... are subject to change, depending on the government of the day."

He concluded his submission to us this morning, Mr. Ramal, by saying, "Any tests administered by professional bodies must be culturally sensitive, fair, reliable and valid."

I don't know about you, but I heard from many people. There were not many who specifically stated that they felt discriminated against or that they felt there were racial barriers, but you can sure read between the lines with a lot of these witnesses who came forward. I'm sure that many of the regulated professions incorporate these principles in any event, but it's the ones that don't that

we have a responsibility as legislators to give the appropriate guidance to.

Remember here, under Bill 124, who we are advocating for. The whole purpose is to give access to individuals who are finding it difficult to gain that access. So for that reason, I support this amendment. I think it's the right thing to do. Again, it's an opportunity for the government to put some teeth into this legislation to make it practical and to really make a difference in people's lives and to empower people who now feel that they don't have a voice and they don't have anyone standing up for them.

The Chair: Thank you. Any further debate? No further debate?

Mr. Tabuns: Recorded.

The Chair: A recorded vote has been requested on the amendment on page 18.

Ayes

Klees, Tabuns.

Nays

Delaney, Leal, Mossop, Ramal, Sergio.

The Chair: That fails.

The section is complete. Shall section 9, as amended, carry? All those in favour? Any opposed? That's carried.

On page 19, an NDP amendment: Mr. Tabuns.

Mr. Tabuns: I move that section 10 of the bill be amended by striking out "and" at the end of clause (a), by adding "and" at the end of clause (b) and by adding the following clause:

"(c) anti-discrimination, anti-racism, cultural competency and human rights training."

Thomson talks about this on page XV of his report, talking about training for council members and staff. "Registration decisions require more than the application of measurable criteria to the individual applicant or the exercise of professional judgment. They require the skill of evaluation, which can be challenging when dealing with applicants from a ... range of countries, educational backgrounds, and experience.... Training topics can include the skill of evaluation, producing sufficient reasons for decisions, holding efficient hearings or meetings with applicants, and understanding diversity."

I've gone a bit further than Judge Thomson, but I think he's pretty clear in his assessment that dealing with diversity in this society, understanding it, understanding one's own prejudices and being conscious of them when trying to work through these issues is something that people should be trained on. I'm suggesting that you amend this act so that training in these areas is part of what is provided so that we reduce the incidence of discrimination.

The Chair: Is that all, Mr. Tabuns?

Mr. Tabuns: That's it.

The Chair: Thank you. Any further debate?

Mr. Ramal: I want to thank Mr. Tabuns for bringing this issue forward, but I want to remind Mr. Tabuns to go back to section 10 clause (b), which outlines his concerns and explains it, in the original bill.

Mr. Tabuns: I'll read clause (b) for the record: "training in any special considerations that may apply in the assessment of applications and the process for applying those considerations."

So there's no explicit commitment to anti-discrimination, anti-racism, cultural competency and human rights training—none. There are all kinds of special considerations in the world, Mr. Ramal, that have to do with a wide variety of factors around a particular profession. But if you actually want to get at anti-racism and anti-discrimination, making sure that people are fully trained around human rights, you have to require it.

1730

Mr. Ramal: I just want to remind you, through you, Madam Chair, that's why we appointed a Fairness Commissioner, to oversee the conduct of all the regulatory bodies, which includes racism and discrimination and all that you mentioned. We cannot just mention every step. That's why the Fairness Commissioner—part of his or her duty is to oversee that conduct. I don't see why we have to repeat it over and over. Subsection 10(b) explains the intent to make sure all the people are being treated fairly.

Mr. Tabuns: It would be useful, then, if Mr. Ramal would point out to us where in part IV, around the commissioner, the commissioner has been charged with making sure that we don't have—that the Fairness Commissioner is looking for problems with discrimination, racism, human rights problems.

Mr. Ramal: The Fairness Commissioner's job is to make sure that the whole process is fairly dealt with and also objectively and with transparency. Therefore whatever obstacle, whether as a result of discrimination or racism, it is part of his or her job to call for a review. It is part of his or her job to do this.

Mr. Tabuns: I have to say, Mr. Ramal, you're not citing any words in the legislation that talk about cultural competency, human rights training, anti-racism and anti-discrimination. Unless people are conscious of those matters and do an analysis using them as part of the framework of their analysis, there's a very good chance that they won't pick them up. I didn't think I had missed anything in the legislation, and I was right. There is no reference to these matters when it comes to the Fairness Commissioner.

I understand your interpretation, you've put your interpretation forward, but I don't think it's a valid interpretation.

The Chair: Further debate?

Mr. Klees: Mr. Ramal, they are very short words. There's no cost to inserting them. They clarify rather than cloud the issue. What is the government's objection to including those words so that it is very clear that these barriers are going to be dealt with by the commissioner?

Mr. Ramal: Mr. Klees, we are very clear in our bill on our objective to apply fairness and transparency in any actions being taken by any professional or regulatory body. Therefore, we're not going to limit ourselves to certain actions. We're going to leave it up to the Fairness Commissioner to decide which action and which blockage is being created by any regulatory body. Then he or she will require an investigation and take action.

Mr. Klees: Would there be any time when it would be appropriate for the Fairness Commissioner to condone racism or to condone—

Mr. Ramal: It will be set out by the regulations later what her or his duties will take, how much time and all the details.

Mr. Klees: Let's be very clear. There's a very specific purpose for this bill.

Mr. Ramal: Yes.

Mr. Klees: You heard people who came forward to talk to us about the barriers that they're facing. Why would we not signal, without equivocation, to newcomers to Canada, to Ontario, as well as to the professions, that one of the issues that the commissioner is going to be focusing on is to ensure that there is no discrimination? Why would we not do that? It's here. We've got the legislation in front of us. We're in the process of crafting that legislation. What's wrong with doing that?

Mr. Ramal: Mr. Klees, if you want to explain and outline every section, it probably would need 1,000 or 1,500 pages. We talk about the job of the Fairness Commissioner to apply fairness and transparency, and I believe it's clear to anyone in any terminology that transparency and accountability mean against discrimination and against racism, including other obstacles. I think this is clear. I have no further comment on this issue.

Mr. Klees: With all respect, we're not asking this to be repeated a thousand times. This is a very important section of the bill. We're asking for it to be stated very clearly. I hear you: It's not going to happen. The government doesn't think it's important to do that. I think it's unfortunate.

The Chair: Further debate? No? There's been a request for a recorded vote on the motion on page 19.

Ayes

Klees, Tabuns.

Nays

Delaney, Leal, Mossop, Ramal, Sergio.

The Chair: The motion fails.

Page 20, Mr. Tabuns.

Mr. Tabuns: Withdrawn, given that the previous decision went against it.

The Chair: All right. Then I believe section 10 is complete.

Shall section 10 carry? All those in favour? Any opposed? That's carried.

On page 21 we have an NDP motion. Mr. Tabuns.

Mr. Tabuns: I move that section 11 of the bill be amended by adding the following subsection:

“Exception

“(6.1) Despite subsection (5), a regulated profession shall not charge a fee for making records available to an applicant for the purposes of the applicant’s preparation for an internal review or appeal or for an appeal or to a court.”

The Chair: You’ve just amended that.

Mr. Tabuns: I have; I’ve left out the last three words “or other tribunal”, since I’ve lost on that, but maintain the principle that documentation would be provided without charge to those who go to an internal review or who go to court.

The Chair: Did you want to have further explanation of that?

Mr. Tabuns: I’ll just say very simply that as I talk to new Canadians who are here, having spent their life savings trying to establish themselves, cash crunch is a major, major issue. I think it’s reasonable for us to try and balance the playing field a bit by not requiring them to pay for provision of documentation. I should note that the Ontario Federation of Labour also asked for this when they made their presentation.

The Chair: Any further debate?

Mr. Tabuns: I’d like a recorded vote.

The Chair: All right.

Ayes

Klees, Tabuns.

Nays

Delaney, Leal, Mossop, Ramal, Sergio.

The Chair: That fails.

Next, we’re skipping over—oh, I’m sorry, we’ve completed that section.

Shall section 11 carry? All those in favour? Any opposed? That’s carried.

We’re now moving on to section 12 and we have an NDP motion on page 23.

Mr. Tabuns: I move that subsections 12(1) and (2) of the bill be struck out and the following substituted:

“Fair registration practices commissioner

“12(1) There shall be a fair registration practices commissioner who is an officer of the assembly.

“Official name

“(2) The fair registration practices commissioner shall be known in English as the Fairness Commissioner and in French as the commissaire à l’équité.

“Appointment

“(2.1) The Lieutenant Governor in Council shall appoint the Fairness Commissioner on the address of the assembly.

“Term of office

“(2.2) The Fairness Commissioner shall hold office for a term of five years and may be reappointed for a further term or terms.

“Removal

“(2.3) The Lieutenant Governor in Council may remove the Fairness Commissioner for cause on the address of the assembly.

“Nature of employment

“(2.4) The Fairness Commissioner shall not do any work or hold any office that interferes with the performance of his or her duties as Fairness Commissioner.

If I may speak to that, Madam Chair?

The Chair: Absolutely. Please do, Mr. Tabuns.

Mr. Tabuns: I think that the whole question of access to professions is a politicized one. It’s an issue where there is tremendous pressure from a variety of quarters in society. I think we have a crisis in this area, and it’s a crisis that is affecting new Canadians in a very profound way. It has to be corrected.

1740

One of the methods that might be of use to this society is to ensure that the Fairness Commissioner has a great deal of independent authority, can act and report to the Legislative Assembly just as the Auditor General, the Ombudsman and the Environmental Commissioner can, so that we do the best we possibly can to correct the imbalance that currently exists, the unbalanced playing field that new Canadian professionals face.

I should note that this initiative was endorsed by the Chinese Canadian National Council, their Toronto chapter, by the Institute of Chartered Accountants of Bangladesh, the Ontario Federation of Labour, OCASI, Women Working with Immigrant Women, and Certified Management Accountants, Bangladesh, Canadian chapter—in other words, a fair number of people in the community concerned about this issue.

The Chair: Any further debate? No further debate? Okay. A recorded vote has been requested.

Ayes

Klees, Tabuns.

Nays

Delaney, Leal, Ramal, Sergio.

The Chair: The amendment fails.

Next is a government motion on page 24.

Mr. Ramal: I move that subsections 12(1) and (2) of the bill be struck out and the following substituted:

“Fairness commissioner

12. (1) The Lieutenant Governor in Council shall appoint an individual to act as the fair registration practices commissioner and who shall be known in English as the Fairness Commissioner and in French as the Commissaire à l’équité.

“Office established

“(2) There is hereby established an office to be known in English as the Office of the Fairness Commissioner and in French as the Bureau du commissaire à l'équité and it shall be headed by the Fairness Commissioner.”

I think it's a more technical amendment, Madam Chair. Also, we listened to many deputations that asked us to strengthen the wording. That's why we changed “may” to “shall,” to give it more strength.

The Chair: Any further debate? No further debate. Shall the amendment carry? All those in favour? Any opposed? That's carried.

Next, on page 24.1 we have a Progressive Conservative motion.

Mr. Klees: I move that subsection 12(3) of the bill be amended adding the following clause:

“(b.1) consult with regulated professions on matters to be specified under clause (b) before they are specified and provide regulated professions with an opportunity to make submissions in writing on the matters.”

We believe that the regulatory bodies should be consulted on the process audits. We support the concept of the process audits, but we do believe the regulated professions should be consulted in terms of the scope of those audits to ensure an effective audit regime. I think it's just practical and the right thing to do.

The Chair: Any further debate? Okay. On the motion, all those in favour?

Mr. Klees: Recorded.

Ayes

Klees, Tabuns.

Nays

Delaney, Leal, Mossop, Ramal, Sergio.

The Chair: The amendment fails.

Next, on page 25, we have a government motion.

Mr. Ramal: I move that clauses 12(3)(c), (d), (e) and (f) of the bill be struck out and the following substituted:

“(c) consult with regulated professions on the cost, scope and timing of audits;

“(d) monitor third parties relied on by regulated professions to assess the qualifications of individuals applying for registration by a regulated profession to help ensure that their assessments are based on the obligations of regulated professions under this act and the regulations;

“(e) provide information and advice to regulated professions and to professions that may be named as regulated professions to assist them in understanding how to comply with the requirements of this act and the regulations;

“(f) advise regulated professions, government agencies, community agencies, colleges and universities, third parties relied on by regulated professions to assess qualifications and others as the minister may direct with respect to matters under this act and the regulations.”

I think this amendment explains itself. It's clear. It's just to give the bill some kind of strength and clarification about clauses (c), (d), (e) and (f).

The Chair: Any further debate? No further debate? All those in favour of the motion? Any opposed? The motion carries.

Page 26: an NDP motion.

Mr. Tabuns: I move that clause 12(3)(h) of the bill be struck out and the following substituted:

“(h) establish eligibility requirements that a person must meet to be qualified to conduct audits, including demonstrated competency in the protection of human rights and the understanding of discrimination.”

I've made the arguments on this.

The Chair: Could I just clarify? I thought I heard you say 12(3).

Mr. Tabuns: Yes, 12(3).

The Chair: It says 12(2) on our—

Mr. Revell: I believe that the (3) is correct.

The Chair: So 12(3) is actually the correct clause. I'm hearing from legislative counsel that Mr. Tabuns actually has it right verbally and that on paper it's wrong. It should be 12(3). Is that correct?

Mr. Ramal: So we'll disregard the 12(2).

The Chair: The rest is correct; it's just the numbering. It was a typo. Legislative counsel is taking responsibility for that.

Any further debate on this amendment put by Mr. Tabuns?

Mr. Tabuns: Just a recorded vote.

Ayes

Klees, Tabuns.

Nays

Delaney, Leal, Mossop, Ramal, Sergio.

The Chair: That motion has failed.

Next, on page 27, an NDP motion.

Mr. Tabuns: I move that section 12 of the bill be amended by adding the following subsection:

“Evaluation of professional standards

“(3.1) The Fairness Commissioner shall evaluate professional standards of professions in other jurisdictions and their educational standards in comparison to the standards for regulated professions in Ontario and he or she shall update the evaluations regularly and make the evaluations available to the public.”

It's fairly straightforward, actually. If we are going to expedite the recognition of credentials, if we are going to make sure that as much fairness as possible prevails, there needs to be an ongoing assessment of the comparability of standards in other jurisdictions with those in Ontario so that those who are putting forward their credentials for recognition will have the government of Ontario essentially standing behind them with an already existing assessment. This would facilitate the develop-

ment of reciprocal agreements between professional organizations in Ontario with those in other parts of the world, and thus expedite the recognition of credentials, or in fact make it much clearer to international professionals who come from countries without reciprocal agreements that there is a substantial difference in qualifications. At the very least, that would serve transparency.

Many organizations asked for this in the course of deputations: the Canadian Tamil Congress, PROMPT, the Centre for Action on Social Justice, the Registered Nurses' Association of Ontario, the Yee Hong Centre for Geriatric Care, Ontario Regulators for Access, in 2003, talked about the difficulty for regulators to maintain correct information on country of origin, education, training and practices. So if we're going to facilitate the whole process for regulators, for colleges, it's useful to have the access centre doing that analysis so that all bodies, all stakeholders, are served equally and so that we, again, level the playing field so that internationally trained professionals have a better shot at having their legitimate credentials and skills recognized.

1750

The Chair: Any further debate?

Mr. Tabuns: Recorded vote.

The Chair: A recorded vote has been requested.

Ayes

Klees, Tabuns.

Nays

Delaney, Leal, Mossop, Ramal.

The Chair: The amendment fails.

Next is page 28, NDP motion, Mr. Tabuns.

Mr. Tabuns: I move that section 12 of the bill be amended by adding the following subsection:

"Publication of information

"(6) The Fairness Commissioner shall make the following information available to the public either electronically or by such other means as he or she considers appropriate and the information shall be made available without charge:

"1. Information related to this act and the duties of regulated professions under this act.

"2. Information on the functions of the Fairness Commissioner.

"3. Information on the functions of the access centre.

"4. Any information that the Fairness Commissioner is required to make available to the public under this act.

"5. The annual report of the Fairness Commissioner."

It's fairly straightforward to me that people need to have information about these matters, particularly if they're applying for recognition of their credentials. The Fairness Commissioner should be charged to make sure that's as widely and as easily available as possible.

The Chair: Any further debate?

Mr. Tabuns: Recorded vote.

The Chair: A recorded vote has been requested.

Ayes

Klees, Tabuns.

Nays

Delaney, Leal, Mossop, Ramal.

The Chair: The motion fails.

Shall section 12, as amended, carry? Any opposed?

The motion carries.

Shall section 13 carry? Any opposed? That carries.

We're on to section 14 and the NDP motion on page 29.

Mr. Tabuns: I'm not sure if it's in order. I'd just like to have a ruling on that before I read it, given that it's predicated on the idea of a Fairness Commissioner who is an officer of the Legislature.

Mr. Revell: I would think that from a legal perspective there would be nothing wrong with this particular provision standing alone, because it essentially changes the direction from the Fairness Commissioner preparing this report and submitting it to the minister to a requirement that it be submitted directly to the Legislature. There's a complementary amendment in subsection 14(5) that would strike out the provision referring it to the minister.

Mr. Tabuns: Fine. Then I move that subsection 14(1) of the bill be struck out and the following substituted:

"Annual report

"(1) The Fairness Commissioner shall prepare and submit to the Speaker of the Assembly an annual report on,

"(a) the implementation and effectiveness of this act and its regulations and the corresponding provisions of the Regulated Health Professions Act, 1991, and its regulations in helping to ensure that the registration practices of regulated professions are transparent, objective, impartial and fair;

"(b) the impact of this act and the regulations and the corresponding provisions of the Regulated Health Professions Act, 1991, and its regulations on the lives of internationally trained individuals; and

"(c) the success rate for internationally trained individuals gaining admission to regulated professions to which this act and the Regulated Health Professions Act, 1991 apply.

"Same

"(1.1) The Speaker shall lay the report before the assembly as soon as reasonably possible."

This was requested by the Registered Nurses Association of Ontario and is in keeping with the spirit of ensuring that the Legislature knows whether or not legislation that has been adopted is actually effective.

The Chair: Any further debate?

Mr. Tabuns: Recorded vote.

The Chair: A recorded vote has been requested.

Ayes

Klees, Tabuns.

Nays

Delaney, Leal, Mossop, Ramal.

The Chair: The motion fails.

On page 29.1, we have a Progressive Conservative motion.

Mr. Klees: I move that subsection 14(1) of the bill be struck out and the following substituted:

“Annual report

“(1) The Fairness Commissioner shall prepare and submit to the Speaker of the Assembly and to the minister an annual report on the implementation and effectiveness of this act and its regulations and the corresponding provisions of the Regulated Health Professions Act, 1991, and its regulations in helping to ensure that the registration practices of regulated professions are transparent, objective, impartial and fair.

“Same

“(1.1) The Speaker shall lay the report before the assembly as soon as reasonably possible.”

The purpose of this is to ensure that the report is not only directed to the minister but is concurrently tabled with the assembly through the Speaker. The reason for that, believe it or not, is that ministers tend to rag the puck with these things from time to time. It's imperative that the assembly have access to that report as soon as possible.

The Chair: Thank you, Mr. Klees. Any further debate?

Mr. Tabuns: I concur.

The Chair: Thank you, Mr. Tabuns. On the motion, all those in favour? Any opposed? The motion fails.

On page 30 we have a government motion.

Mr. Ramal: I move that section 14 of the bill be amended by adding the following subsection:

“Same

“(1.1) A report under subsection (1) may include an analysis of the possibility of establishing a tribunal to hear appeals of registration decisions.”

This section is being amended to strengthen the bill and to be clear about our commitment to the implementation of this bill.

The Chair: On that motion, Mr. Tabuns?

Mr. Tabuns: Of all the amendments to the bill that the government has made, this is the one that strikes me

as cynical. This is a sop. You have the power as government to establish an independent tribunal. You had a judge do a report on how to set up an independent tribunal. You've had your minister, Mary Anne Chambers, say we should have an independent tribunal, which is why she had Judge Thomson. You've had reports going back to 1989 saying you need an independent tribunal. And in the act you're saying we should have a study as to whether or not we should have an independent tribunal? It's so you can say, “Well, we didn't abandon the idea. We left it there.”

It is an extraordinary piece. I saw many interesting things in my time as a politician on city council. I saw some of the most exotic motions possible. But this is a contender. It's definitely right up there with the wild ones.

I want to vote for it because at least I want to keep the thing alive, but for you to say that we're going to have a report back on the possibility of establishing a tribunal, one would have to ask, why did you blow the big bucks on Judge Thomson's report? Didn't you think he figured it out? That's the question. Don't you think he figured it out?

Mr. Ramal: We thank Judge Thomson 100% for his report. That's why we have Bill 124. As a matter of fact, we used Judge Thomson's recommendations—

The Chair: We have about a minute left in the proceedings today.

Mr. Ramal: As a matter of fact, we used his recommendations and have gone beyond by listening to many people from the province of Ontario who came to our committee and talked to us about the need for this bill and the importance of dealing with the issue upfront instead of waiting for years and years and delaying many different issues that concern their lives. We're clear on this issue. That's why we brought this amendment, to maintain our commitment to the people of Ontario, the newcomers who come to this province to use their abilities and skills and talents in the service of this great province.

Mr. Tabuns: I regret that that was not videotaped.

The Chair: Thank you. This issue is going to remain on the table, because the time for the committee has now expired. The committee is now adjourned and will be reconvened on Wednesday morning of next week at 9 o'clock.

The committee adjourned at 1800.

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Deuxième session, 38^e législature

Official Report of Debates (Hansard)

Thursday 7 December 2006

Journal des débats (Hansard)

Jeudi 7 décembre 2006

**Standing committee on
regulations and private bills**

**Comité permanent des
règlements et des projets
de loi d'intérêt privé**

**Fair Access to Regulated
Professions Act, 2006**

**Loi de 2006 sur l'accès équitable
aux professions réglementées**

Chair: Andrea Horwath
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLSCOMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ

Thursday 7 December 2006

Jeudi 7 décembre 2006

*The committee met at 1528 in committee room 2.*FAIR ACCESS TO REGULATED
PROFESSIONS ACT, 2006LOI DE 2006 SUR L'ACCÈS ÉQUITABLE
AUX PROFESSIONS RÉGLEMENTÉES

Consideration of Bill 124, An Act to provide for fair registration practices in Ontario's regulated professions /
Projet de loi 124, Loi prévoyant des pratiques d'inscription équitables dans les professions réglementées de l'Ontario.

The Vice-Chair (Mr. Jeff Leal): We'll bring this meeting of the standing committee on regulations and private bills to order. When we adjourned yesterday afternoon at 6 of the clock, Mr. Ramal had moved a government motion on page 30 of our amendments package. Mr. Tabuns, were you the next one to speak on this?

Mr. Peter Tabuns (Toronto-Danforth): Mr. Chair, I believe that I was. I think I'd set out from opening comments yesterday about this particular amendment. My guess is that the government listened to the speakers, identified a political problem, decided it needed to look like it was going to be acting without acting and put forward this amendment. I'd say that for the opposition it's dangerous to vote against the amendment because I can hear the speech now: "You voted against even the possibility of establishing a tribunal." So I'm probably going to vote for this, but I want to say, as I said yesterday, it's a pretty cynical move. I think you should give your minister the gears over giving you the instructions to bring this forward.

The Vice-Chair: Mr. Klees, do you have any comment?

Mr. Frank Klees (Oak Ridges): Sure. I agree with Mr. Tabuns's assessment here. I think probably the members of the government on this committee understand full well that that is in fact what this is. It's a way for the government to say that we're doing this, but not doing it. It's typical of the way this government does business. I will not vote for it. I'll abstain on this just on a matter of principle, because I've identified your tactic, Mr. Ramal, and I'll have no part of it.

The Vice-Chair: Any further discussion? All in favour of the amendment? Opposed? It's carried.

Mr. Tabuns, page 31, your motion.

Mr. Tabuns: I move that section 14 of the bill be amended by adding the following subsection:

"Same

"(3.1) The report shall include recommendations on actions that should be taken by the government of Ontario to improve access by qualified internationally trained individuals to gain accreditation and employment in the regulated professions."

Thomson, on page 16 of his executive summary, talks about the need when the reporting is made to "collect, verify, disseminate and update promising registration practices and innovative techniques that regulators can consider as ways to achieve the code requirements." In short, it's a fairly simple, straightforward housekeeping recommendation on the part of Judge Thomson that should be in the bill so that there's a continuous effort in improving the quality of accreditation, and I so move.

The Vice-Chair: Thank you very much, Mr. Tabuns. Mr. Klees, further comment? No comment. The government side?

Mr. Khalil Ramal (London-Fanshawe): No comment. We don't see any need to repeat the position of the fairness commissioner. Part of his or her duty to do this would be in the bill, Mr. Tabuns.

The Vice-Chair: I will now have the vote. All in favour of the amendment?

Mr. Tabuns: Recorded vote.

Ayes

Tabuns.

Nays

Delaney, Ramal, Rinaldi, Sergio.

The Vice-Chair: It's defeated.

Mr. Tabuns, page 32.

Mr. Tabuns: This is redundant, given that the fairness commissioner position was not appointed in the way that I recommended, so I will withdraw.

The Vice-Chair: You're withdrawing that?

Mr. Tabuns: Yes.

The Vice-Chair: Mr. Tabuns withdraws the NDP motion.

Page 32.1, Mr. Klees.

Mr. Klees: I'll withdraw that as well.

The Vice-Chair: Page 32.1 has been withdrawn by Mr. Klees.

Shall section 14, as amended, carry? All in favour? Opposed? It's carried.

Mr. Tabuns, you're next, on page 33.

Mr. Tabuns: Page 33: Again, unfortunately, this is redundant, given that my earlier motion on the fairness commissioner's status was not adopted, so I withdraw it.

The Vice-Chair: We'll now deal with section 15. Shall section 15 carry? All in favour? Opposed? It's carried.

We're now on to section 16. Mr. Klees, please.

Mr. Klees: I move that clause 16(2)(a) of the bill be struck out and the following substituted:

"(a) provide information and assistance to internationally trained individuals and others both inside and outside Ontario who are applicants or potential applicants for registration by a regulated profession with respect to the requirements for registration and the procedures for applying."

Basically, it's simply suggesting that we should be prescriptive in terms of what the expectations are and that we ensure we recognize that the focus of this support should be on those who are still in their country of origin and in the process of applying, as well as those who are already here in Ontario.

The Vice-Chair: Discussion? Mr. Tabuns, please.

Mr. Tabuns: I have to say, Mr. Klees, this is quite an intelligent amendment. I think it makes total sense. We've had discussions among ourselves before about the need for people, prior to coming to Ontario, to have this kind of information. I think you and your party were entirely right in bringing it forward. I can see every good reason why the government would support it.

The Vice-Chair: Mr. Ramal, please.

Mr. Ramal: Already the bill asks for access centres which provide all the information needed, whether inside the province or the country or outside the country, plus all the regulated bodies in the province of Ontario have a website to provide all the information. We see no necessity for passing this motion.

The Vice-Chair: Any further discussion?

Mr. Klees: I would like to just get a clarification from Mr. Ramal, then. What you're saying is that it's inherent, it's understood that this access centre and all of the work that's done through this access centre will include ensuring that access to information will be available to individuals in their country of origin. Can you give me some sense of how you see that working?

Mr. Ramal: When you log on to the computer, on the website, if you want to come to Ontario, we've already established a portal. We have five locations in the province of Ontario that will be up and running very soon in five cities: London, Windsor, Toronto, Hamilton, Thunder Bay—and Ottawa. Those portals advise people about whatever information, plus the Ministry of Citizenship and Immigration has a website, plus the access

centres will have a website to explain to people what's required to apply and to be accredited in the province of Ontario, plus all the regulatory bodies have already on their websites whatever information is needed about their qualifications and the time needed to pass those and the time for examinations.

Mr. Klees: So you're not moving beyond the concept of a website? The reason for this amendment is to ensure that we understand that the ability to deliver information and support goes far beyond just having a website, that there would be services available to people that would ensure that they have practical support and practical guidance in the country of origin while they are in the application process.

My concern is that maybe you haven't grasped fully what it is that we're intending here. I would be satisfied if you are comfortable that your access centre will in fact have the mandate and the authority. This is why I thought it was important to put into legislation that there is legislative authority for the access centre to take on those responsibilities and projects like that that would actually provide practical support and practical guidance, as opposed to just a website that, quite frankly, is very passive.

I think we heard from people over the last number of weeks that it's not enough to just provide passive information, that we should be proactive and the professions should be proactive in ensuring that this process takes place before we have landed immigrants here, before people actually come here.

Mr. Ramal: Mr. Klees, you know the immigration process abroad is a federal jurisdiction, not a provincial jurisdiction, therefore we cannot control that process. We are in charge of the people who live in Ontario. That's our obligation and our duty, to provide the service to whoever lives in Ontario and wants to be an Ontarian.

Mr. Klees: Mr. Ramal, I'm not talking about the immigration process; I'm talking about the training process.

Mr. Ramal: Even the training process: A couple of million people apply to come to Canada; you're not going to train two million people. You have to be logical—

Mr. Klees: No, we're talking about, and I thought you were in agreement on this, that once someone has made an application, they are in the process of applying. It usually takes two to three years for these applications to go through the system. Why not make it possible for these people, while they are in the process in their country of origin, to be going through this process so that when they get here, they're running? As opposed to being a burden and burdensome and frustrated while they're here for two or three years, they can go through these systems.

By the way, Mr. Ramal, you know that Ontario is in that business now through our community colleges. We actually have community college programs in various foreign countries. You know that.

Mr. Ramal: I know that 100%, and I—

Mr. Klees: So we are in that business.

Mr. Ramal: Many regulatory bodies open up in many different jurisdictions; I'm not going to talk outside of this. This motion doesn't fit with our requirement. I think there's no need to support it, and there's no further comment. If you want to debate the immigration issue, I'm more than happy to do it with you after we're finished this committee.

Mr. Klees: Do you want to step outside?
1540

Mr. Ramal: No, no, I'm talking about—

The Vice-Chair: Mr. Tabuns, please.

Mr. Tabuns: That was a step outside for debate, I understand.

Mr. Ramal, I'm a bit surprised, because actually Mr. Klees was pretty good. He said, "Okay, this is my motion." You said, "No, your motion is unnecessary because really this is open." If I understood your remarks just now—

Mr. Ramal: I said already we have an access centre, which is going to provide information needed to anyone—

Mr. Tabuns: Right. So if I'm an applicant, let's say a Pakistani working in Dubai, considering coming to Canada, and I send an e-mail to the access centre, will I get service with an assessment of my credentials, advice on how to apply, commentary on the chances for recognition of my credentials? Will an applicant outside the country get that sort of service to help them make an informed decision before they come here?

Mr. Ramal: I'm sorry. I'd like to ask the ministry staff, who are working on these things.

The Vice-Chair: Ministry staff, could you come forward and identify yourself and provide that?

Mr. Tabuns: We understood the headshake, but others may not.

Interjection.

Mr. Mario Sergio (York West): There are six, seven dealing with that, everything you said.

The Vice-Chair: We'll have the ministry staff first. Can you respond, please, and then I'll go to Mr. Sergio.

Ms. Riet Verheggen: Good afternoon. My name is Riet Verheggen and I'm the director of the immigration branch for the Ministry of Citizenship and Immigration.

The Vice-Chair: Welcome.

Ms. Verheggen: Thank you. The access centre will not be providing assessments of people's credentials either before they arrive or at the time of arrival. The Ministry of Health in the access centre will be providing some of those services with relation to the IMG program, the international medical graduate program, but we are not entertaining doing credential assessment. That is still the responsibility of regulatory bodies, as well as WES, World Education Services.

The Vice-Chair: Thank you. Mr. Tabuns, and then I'll go to Mr. Sergio.

Mr. Tabuns: I want to be clear so I understand it. The access centre shall "provide information and assistance to internationally trained individuals and others who are applicants or potential applicants for registration by a

regulated profession with respect to the requirements for registration and the procedures for applying." So if I was, let's say, a Pakistani professional, as I was saying, currently working in Dubai and I sent an e-mail to the access centre saying, "I'm interested in coming to Ontario. I've applied. Give me advice on this, the process, all of that," what would they receive from the access centre?

Ms. Verheggen: They would receive information and advice, but they would not receive a technical assessment of their credentials. So they would be receiving information about the regulatory body, about the processes in place, the contacts to be made, trying to put some things into plain language so that the communications links are clear, but not technical assessment.

Mr. Tabuns: So information and assistance then would be made available to people outside of Canada before they come to Ontario if they make the request?

Ms. Verheggen: If they phone or if they use the website, absolutely.

The Vice-Chair: Mr. Sergio next, then Mr. Klees.

Mr. Sergio: No, that's fine. The same point—it's already been explained.

Mr. Klees: So, in other words, it isn't contemplated that there would be programs that would be made available or that the access centre would work in co-operation with the professions to provide any of these programs that would allow them to prepare in advance of coming here. It really is just an information portal is what you're saying?

Ms. Verheggen: That's right. We will be working with regulatory bodies in Ontario perhaps to provide assistance, such as workshops for the internationally trained. Obviously, people who are still abroad wouldn't have access to those workshops. That's what's being contemplated at this point in time.

Mr. Klees: That they would not have access to the workshops?

Ms. Verheggen: They can't physically be present at those workshops because the workshops that we would set up with the regulatory bodies would be in Ontario for internationally trained individuals who have arrived here already. But they certainly would have access to any information on the website, as well as any information that we have in our connections through the website directly to the regulatory bodies to get information.

Mr. Klees: And is there a reason why one couldn't participate in those workshops through distance learning, through the Internet? It's being done in our colleges and universities now.

Ms. Verheggen: All those types of services are being contemplated at this point in time. I think that it's too premature to determine exactly what we're going to deliver to that level of detail.

Mr. Klees: So we're not excluding that; you're saying that it would be possible to do that?

Ms. Verheggen: These services have certainly been contemplated into the future, that might be available. I think that's where we stand.

The Vice-Chair: Thank you very much for your information. Any further discussion? All in favour of Mr. Klees' amendment? Opposed? It's defeated.

Mr. Klees, 33.2, please.

Mr. Klees: I move that subsection 16(2) of the bill be amended by adding the following clause:

"(a.1) provide to ministries and government agencies, and advise them on, information that they provide in respect of this act and the registration of applicants by regulated professions, whether the information is supplied electronically or otherwise."

The Vice-Chair: Mr. Klees, that may be redundant in light of your previous motion being defeated.

Mr. Klees: That's why I hesitated.

The Vice-Chair: You're withdrawing it then?

Mr. Klees: I withdraw that.

The Vice-Chair: Thank you very much.

Mr. Klees, 33.3. That may be redundant too.

Mr. Klees: I don't think so.

The Vice-Chair: Continue, then; go ahead.

Mr. Klees: I move that subsection 16(2) of the bill be amended by adding the following clause:

"(b.1) conduct research, analyze and make recommendations on metrics and methods that could be used to measure and quantify into a Canadian equivalency the work experience of internationally trained individuals."

This is an attempt to address what I think we all agree we heard on a recurring basis from witnesses to this committee: that even though they may have the equivalency rating and have passed their various tests, at the end of the day it's the Canadian work experience that's the huge hurdle for people.

The reason I brought forward this amendment is that we had a presentation here at the committee from an organization that has in fact undertaken this work. They've been working with the federal government for a number of years, where they're taking foreign experience and they've developed a model that allows them to create Canadian work experience equivalency rating. Given the nature of the work they do, the environment in which they're working, the type of responsibilities that they have, there is an actual Canadian work experience equivalency that can follow them in their job application process, and I think that this should be considered a fundamental tool that we would incorporate into the responsibilities of the access centre.

So, with that in mind, I would hope that the government wouldn't dismiss this out of hand. Perhaps with this explanation, the government would see fit to give us their support.

Mr. Ramal: Thank you, Mr. Klees. I think it's a very important element, but I don't see how it would fit into the bill because we're dealing with the accreditation part. We're talking about after they get accredited, how we can assess their qualifications. Hopefully you agree with me on that one.

Mr. Klees: Actually, Mr. Ramal, I don't, and the reason is that if in fact this can take place in advance—

Mr. Ramal: You want to divert—

The Vice-Chair: Mr. Ramal, just let Mr. Klees finish and then I'll go to Mr. Ramal. Mr. Klees, please, you have the floor.

Mr. Klees: I believe, Mr. Ramal, that if you were to look at this very objectively, when someone begins their application process and they can get an equivalency rating for their foreign work experience and include that in their package, in their CV, in their approach, first of all, through the immigration process, that would be very helpful.

1550

Mr. Ramal: That already exists in the system. My wife was a foreign-trained doctor, and her credentials and her experience were included in the application to give her some kind of merit. So what I'm talking about already exists.

Mr. Klees: Well, it doesn't. It really doesn't.

Interjection.

Mr. Klees: Mr. Sergio has something to say about this?

Mr. Sergio: How are you doing, Frank?

The Vice-Chair: Mr. Klees, you have the floor. Please continue.

Mr. Klees: Thank you. Well, folks, you find it jocular. I'm trying to make a very constructive recommendation here. We've heard from people that Canadian work experience is something that is a barrier. This is a way to take foreign work experience and provide an equivalency rating that would be standardized across the various professions or industries. My thought was that this would be helpful to the government.

The Vice-Chair: Thank you, Mr. Klees. Further discussion?

Mr. Tabuns: I think this is an extraordinarily practical, helpful amendment that would deal with a number of the problems that new Canadians face, new Canadian professionals, if in fact this analysis was done and provided to them. Absolutely: The barrier of Canadian experience is a huge one. To the extent that we can develop a system for sound analysis of prior work experience and make that available to Canadian employers, it is going to help remove barriers. I think, given the government's stated interest in all of this, this amendment, which is to do the research, the analysis, and bring forward recommendations, is entirely reasonable—one you should support, for reasons you understand.

The Vice-Chair: Any further comment?

Mr. Tabuns: A recorded vote.

Ayes

Klees, Tabuns.

Nays

Delaney, Ramal, Rinaldi, Sergio.

The Vice-Chair: It's defeated.

Mr. Klees, page 33.4, please.

Mr. Klees: I move that section 16 of the bill be amended by adding the following subsection:

"Assistance to fairness commissioner

"(3) The access centre, at the request of the fairness commissioner, shall assist him or her by providing resources to carry out the functions of the fairness commissioner, including undertaking research, analyzing trends, identifying issues and making recommendations in respect of such matters as the fairness commissioner may request."

Once again, what we're trying to do by way of this amendment is to take it beyond empty rhetoric, that there be an indication that the government is serious, that the minister knows that the minister has a responsibility to provide resources so that the commissioner can in fact do his or her job as set out without this kind of support. Again, you've got a great photo-op. I predict that what we'll have is very little effect on results.

The Vice-Chair: Discussion?

All in favour of this amendment?

Mr. Klees: A recorded vote.

Ayes

Klees, Tabuns.

Nays

Delaney, Ramal, Rinaldi, Sergio.

The Vice-Chair: This amendment is defeated.

Shall section 16 carry? Opposed? It's carried.

Mr. Tabuns, please.

Mr. Tabuns: I move that the bill be amended by adding the following section:

"Legal and professional advice

"16.1(1) In addition to its duties under subsection 16(2), the access centre shall establish a program that provides, without charge, legal and professional advice to internationally trained individuals seeking recognition of their credentials to practise a regulated profession.

"Trained advocates

"(2) The program established under subsection (1) shall also provide, without charge, trained advocates to present the cases of internationally trained individuals in internal reviews or appeals.

"Exception to section 32

"(3) Section 32 does not apply to any person employed or retained for the purpose of providing legal or professional advice under a program established under this section."

It is extraordinarily difficult for people newly arrived in this country to find their way through the regulatory maze. To the extent that an access centre will give people information on how to apply, give them an understanding of the application process, we can be somewhat helpful. But the simple reality is that people, from time to time, will appeal, and it is very difficult in a new culture and

country to understand all the nuances of law, custom, even of the meaning of words that are common.

Thomson talked about the need to support new applicants. The Registered Nurses Association of Ontario and the Metro Toronto Chinese and Southeast Asian Legal Clinic both called for support by the access centre, through trained advocates, at no charge to the applicants to get them through the review process.

So I would urge the government to take action to try to level the playing field for internationally trained professionals by giving them this kind of support through advocates employed by the access centre to move things forward. I think it's entirely reasonable and is in keeping with the stated intent of the government to help internationally trained individuals actually get forward in our system.

The Vice-Chair: Further discussion?

Mr. Tabuns: I would like a recorded vote, please.

Ayes

Klees, Tabuns.

Nays

Delaney, Ramal, Rinaldi, Sergio.

The Vice-Chair: The amendment is defeated.

Mr. Klees, you're next.

Mr. Klees: I move that the bill be amended by adding the following section:

"Location of office

"16.1(1) The access centre shall establish a public office in the municipality that, based on census data, is likely to have the largest population of internationally trained individuals.

"Liaison committee

"(2) The access centre shall establish a municipalities liaison committee to consult with municipalities on an ongoing basis in respect of matters of common interest in the provision of assistance to internationally trained individuals.

"Other offices

"(3) The access centre shall review its mandate and its service model annually to determine whether it would be appropriate to open additional public offices in other municipalities."

The purpose of this amendment is to ensure that the work of the access centre will in fact be carried out in a practical way, that it's not just another announcement or another bureaucracy.

I think the other aspect of this is that we understand the important role of the municipalities. There is a commitment on the part of the federal government, and we've heard the commitment as well from the provincial government, from the minister, that there would be ongoing consultation and that they would be working together with other levels of government to address this issue. The reason for the amendment is to ensure that that is very

clearly spelled out and that the access centre knows what their mandate is and that we don't lose sight of the importance of working together with other levels of government.

The Vice-Chair: Further discussion?

Mr. Tabuns: Recorded vote.

Ayes

Klees, Tabuns.

Nays

Delaney, Ramal, Rinaldi, Sergio.

The Vice-Chair: This is defeated. Since this was the suggestion for a new section, we do not need to vote on it.

Next, Mr. Tabuns has an amendment to section 2. My understanding is, Mr. Tabuns, this would be redundant because number 22 didn't get approved.

Mr. Tabuns: That's my understanding as well, so I withdraw.

The Vice-Chair: We are now going to section 17. Mr. Tabuns, please—oh, I'm sorry. There are no amendments on section 17.

Shall section 17 carry? Carried.

1600

Mr. Sergio: Did section 16 carry?

The Vice-Chair: Yes, it did. We already voted on that.

Page 36, Mr. Tabuns?

Mr. Tabuns: I move that subsection 18(2) of the bill be amended by striking out "and" at the end of clause (b), by inserting "and" at the end of clause (c) and by adding the following clause:

"(d) the racial, cultural, linguistic and gender diversity of the individuals assessing qualifications and making registration decisions."

Very simply, this is an ongoing part of an attempt to reshape this legislation so that there's more of a consciousness around discrimination issues, gender issues. It's consistent with recommendations from groups like Women Working with Immigrant Women. It doesn't prescribe any quota for the makeup of these bodies, but does give groups an incentive to try to reflect the composition of the body of applicants who are approaching them. I think it's an entirely reasonable amendment and I'd ask the government to support it.

The Vice-Chair: Discussion? A recorded vote?

Mr. Tabuns: Yes, please.

Ayes

Klees, Tabuns.

Nays

Delaney, Ramal, Sergio.

The Vice-Chair: This amendment is defeated.

Shall section 18 carry? Carried.

Shall sections 19 to 24, inclusive, be carried? Carried.

Mr. Klees, please, section 25.

Mr. Klees: I move that subsection 25(2) of the bill be amended by adding "including, for greater certainty, any regulation related to registration requirements" after "regulation" where that word appears for the first time.

The purpose of this amendment is to ensure that the bill has oversight over the process, not the requirements for registration. I don't believe it's the intent, although, the way the bill is worded now, the fairness commissioner would have the authority to direct a profession as to the requirements for registration. I think we want to be sure that we don't interfere with the mandate of the profession. It's not up to the fairness commissioner to say what the requirements for registration should be. It is the mandate of the fairness commissioner that there is fair access. So my concern is that without this amendment, it is not clear. I think we actually allow the bill to state something that was never intended. If it is intended, I'd like to have clarification from the government to that effect.

The Vice-Chair: Mr. Ramal, please?

Mr. Ramal: Thank you, Mr. Klees. I agree with you.

The Integrity Commissioner's job is just to make sure there is fair, balanced and objective access. It is not his or her job to set out the requirements and the qualifications that are set up by the regulatory body; I agree with you. It's already in the bill.

Mr. Klees: Well, it's not in the bill. The reason for the amendment is to ensure that it is in the bill. If you agree with me, perhaps you could consult with your staff or with your legal adviser here. Perhaps we could set this aside. Because if you do agree—the bill does not communicate that. It will, with this amendment. I don't think we should let the bill pass without covering this off.

Mr. Ramal: The job of the fairness commissioner is set out in the description of his or her job: to oversee the conduct of the regulatory body. It never mentions that the fairness commission is going to interfere in the qualifications, which are set out by the colleges and regulatory bodies. If you want more definition than this, I can ask ministry staff to—

Mr. Klees: I'd like to hear from staff on that, because I really think that—we've read this. We've had advice. We've also reviewed this with a number of the professions. There's a serious concern that unless this change is made, it will in fact leave it open for the fairness commissioner to determine what those regulations are.

The Vice-Chair: We have legal counsel from the ministry. Sir, for Hansard, could you just identify yourself?

Mr. David Lillico: My name is David Lillico and I'm counsel with the Ministry of Citizenship and Immigration. I believe the issue is whether, in the absence of the amendment that's now being looked at by the committee, there's any ambiguity about whether the commissioner in

the bill, as stated, would have authority to make orders in relation to the substantive requirements for registration of the professions. The answer is no; there is no ambiguity. The commissioner would not have authority to do that.

The authority of the commissioner to make orders is in relation to the matters set out in part III. Those are registration practices as set out in part III. The commissioner does not have order-making power in the bill as it's currently structured in relation to the substantive requirements. He can't make an order requiring that there be a change in the substantive requirements for entry into a profession.

The Vice-Chair: Further questions for Mr. Lillico?

Mr. Klees: I have a question, yes. We're not suggesting that the commissioner has that power, but the way this is worded—please correct me if I'm wrong—is that the commissioner can make a recommendation to the minister that a regulation be changed and the minister has the authority to direct the change of that regulation.

Mr. Lillico: If the minister in question already has that authority through some other source, I don't think this bill gives the minister—it might be the Minister of Natural Resources or Community and Social Services, depending on the circumstances—additional authority.

Mr. Klees: But my understanding is that there is no authority that any minister has today to make changes to a profession's registration requirements. They are self-regulated. They determine their own regulations for registration. This is the first time that it appears in legislation that a minister is given the authority to direct a profession to change its regulation. That's the very concern. If we're wrong, then please clarify that for us. I'm raising an issue here that is of concern to the regulated professions. If it's not the intent, then we should clarify the wording to provide that level of comfort to the regulated professions.

Mr. Lillico: I think there is another reference to this issue, but it's elsewhere in the bill. It's in 25(2)(b). It's a little further on in the section. Clause 25(2)(b) speaks to the power: "that the minister exercise any power or powers that the minister has to request or require...." So if the minister has an existing power—this is in clause 25(2)(b)—to request or require those changes, then the fairness commissioner under Bill 124 can ask the minister to exercise those powers. But I don't think Bill 124 gives additional powers to the minister. It's just a mechanism under which the commissioner could request that the minister exercise powers that the minister already has.

Mr. Klees: Could I ask, then—because what I heard was that you don't think Bill 124 gives any additional powers to a minister that the minister doesn't have currently. Could I ask you to make the statement on the record that Bill 124 does not give any additional powers to the minister as it relates to regulated professions, so that we have that on record? Because I think it's important for the professions to understand that and to have that level of comfort.

1610

Mr. Lillico: That's my opinion.

The Vice-Chair: Mr. Tabuns, I think you had your hand up.

Mr. Klees: By the way, for clarity, perhaps I could get your comment on this: If in fact this amendment was accepted by the government, it would not take away from the intent as it is described now in Bill 124. Would you agree with that?

Mr. Lillico: The bill, as it's set out now, doesn't give the fairness commissioner the power to make an order in relation to the substantive requirements for entry into a profession, so my opinion is that this amendment wouldn't add anything to that. It doesn't seem to me to be legally necessary.

Mr. Klees: Would you agree that it would serve to clarify that point?

Mr. Lillico: I don't believe there is any ambiguity on this point in the bill as it's currently drafted.

Mr. Tabuns: I don't need to ask your opinion, sir—and I appreciate the information you have given us—just to speak in favour of Mr. Klees's amendment. I have in the past received legal advice on city matters and had the city solicitor say I'm taking a belt-and-suspenders approach. I'm making it abundantly clear, and I think, Mr. Klees, in your amendment, that's what you're doing. It may be that others read what's already the existing language and say, "It's clear enough for me." I think you're making it very clear that the powers here are restricted to the process of registration and that we're not having the minister or the fairness commissioner or anyone muck about with the rest, so that there will never be any question or debate that has to be endured by anyone on this matter. So I think you are quite correct to move this amendment and the government should support it. And there should be a recorded vote, if there is a vote.

Ayes

Klees, Tabuns.

Nays

Delaney, Ramal, Rinaldi, Sergio.

The Vice-Chair: It's defeated.

Mr. Tabuns, please, page 37.

Mr. Tabuns: I move that section 25 of the bill be amended by adding the following subsections:

"Minister's orders

"(3) In addition to his or her powers under any other act, if a regulated profession fails to comply with an order under subsection (1) or to act on a request or requirement under subsection (2), the minister may order the regulated profession to change its registration practices in such manner as is set out in the order.

"Conflict

“(4) If there is a conflict between an order under subsection (3) and a regulation that governs a regulated profession, the order prevails.”

Again, this is just to make very sure that the minister has the authority and power to deal with discriminatory or problematic registration practices. I supported Mr. Klees's amendment because I thought it would actually assist me. It would make it very clear that we're only talking about registration matters. Failing adoption of his amendment, we have the words of the crown's legislative counsel that in fact we're only empowered to deal with registration matters. This, then, would make sure that the minister can deal with any problem with registration practice, and I'd like to see it adopted.

The Vice-Chair: Further discussion?

Mr. Tabuns: If none, a recorded vote, please.

Ayes

Klees, Tabuns.

Nays

Delaney, Ramal, Rinaldi, Sergio.

The Vice-Chair: It's defeated.

Shall section 25 carry? All in favour? It's carried.

Because amendment 37 was defeated, that means that the amendments for sections 26, 27 and 28 are redundant, so we don't have to deal with them.

Then I shall ask, shall section 26 carry? Carried.

Shall section 27 carry? Carried.

Shall section 28 carry?

Mr. Klees: Excuse me. Can you explain to me why my section 28 amendment has not been dealt with?

The Vice-Chair: Sorry, Mr. Klees, we'll go back to that. That's 40.1, section 28. My apologies, sir.

Mr. Klees: I move that subsection 28(2) of the bill be struck out and the following substituted:

“Power of court

“(2) An appeal under this section may be made on questions of law, questions of fact and questions of mixed law and fact and the court may affirm, reverse or vary the order of the fairness commissioner.”

The amendment, as proposed, will expand the scope of the court in evaluating the decisions of the fairness commissioner and will allow for, we believe, based on this amendment, a much more thorough appeal process for all involved.

I'd like to read into the record and for the benefit of the government members, and then I would like to have a comment as well from legal on this section—this is a quote from the CMA, as it was presented to us in hearings.

“Subsection 28(2) specifies that an appeal may be made on questions of law only. Again, given the criticality of the matters on which an appeal would be sought, we believe that appeals should also be permitted on questions of fact or mixed law and fact; otherwise, a

process for appeal to an independent tribunal should be established for questions of fact or mixed law and fact. This will ensure due process in the disposition of compliance orders that the regulated profession believes would be detrimental to the conduct of the profession and the public interest.”

By the very fact that the government has already rejected an appeal to an independent tribunal, it is, I believe, imperative that the government consider adopting this amendment to ensure that we have a very thorough process of appeal.

I would like to get a comment from the legal adviser on this.

Mr. Lillico: The motion before the committee would seek to amend the bill, which now says that appeals may be made on questions of law, and it would add the ability to appeal on “questions of fact and questions of mixed law and fact.”

The government doesn't believe that it's necessary to have this amendment, because the bill already provides a very thorough structure under which the commissioner can be very sure of his or her facts before making an order, and that's so for a number of reasons.

Under sections 18, 19 and 21, the regulated professions provide their own reports about their own operations, setting out the facts as they exist in those professions. Under section 20, there is a formal process for an external audit of those professions, and in that external audit there is more factual information coming forward to the commissioner.

Further, there is a requirement in subsection 26(3) that before making an order the commissioner is required to give notice of the proposed order to the profession and required to provide the profession with an opportunity to make written submissions in response within 30 days. So there's another opportunity for the profession to provide additional clarifying, factual information to the commissioner before the order issues. There are a number of safeguards built into the bill to see that the opportunities for factual errors don't arise. Therefore, the restriction of the appeal as is in Bill 124 now to questions of law is, we believe, appropriate.

1620

Mr. Klees: I don't believe that any commissioner, whoever it might be, who is appointed, will be infallible. We've learned enough about our systems to know that they will from time to time be imperfect. What we're trying to do here is provide as broad a scope of appeal to ensure that people are dealt with as fairly as possible. So I thank counsel for his explanation on behalf of the government, but I don't believe that it is sufficient. I do believe that this amendment would serve the public interest and I would hope that the government would see the wisdom of adopting it.

The Vice-Chair: Further discussion? Mr. Klees, do you want a recorded vote on this?

Mr. Klees: I do.

Ayes

Klees, Tabuns.

Nays

Delaney, Ramal, Rinaldi, Sergio.

The Vice-Chair: This amendment is defeated.

Shall section 28 carry? Carried.

Section 29, Mr. Tabuns?

Mr. Tabuns: It's redundant, Mr. Chair.

The Vice-Chair: Thank you, sir.

Shall section 29 carry? Carried.

Shall section 30 carry? Carried.

Shall section 31 carry? Carried.

Shall section 32 carry?

Mr. Tabuns: Just a second. I move that 32(b) not be voted for. So I'd ask that you vote separately on 32(a) and 32(b). I think, consistent with arguments I've made before, that individuals will need assistance in appeals. Although this committee is not—

The Vice-Chair: Mr. Tabuns, do you have some written material for us?

Mr. Tabuns: No, I don't, because I'm not providing an amendment. I'm asking that we vote against 32(b).

The Vice-Chair: Counsel, are you going to help us out here? Continue, Mr. Tabuns.

Mr. Tabuns: I would argue—

Interjection.

Mr. Tabuns: Oh, counsel, you're so good.

I move that clause 32(b) of the bill be struck out. Thank you, counsel.

Even though I think it would be far better that the access centre be given the resources and direction to assist applicants when they go to an internal review, that wasn't successful. But 32(b) precludes the fairness commissioner from providing that assistance to applicants who are going to an internal review or appeal.

I have to say—and this has been interesting to me, talking to many who came before this committee and said they didn't want any amendments because they knew the fairness commissioner would get in there and stand up for anyone who didn't get their registration. My guess is there is simply an assumption rather than being told anything. But I would like to suggest that in fact we make it possible for the fairness commissioner, where that fairness commissioner sees it as necessary and perhaps useful in terms of setting precedent, to actually be party to those internal reviews. So I would ask that we vote separately on 32(a) and (b) and that we, as the wording said, not vote for 32(b).

The Vice-Chair: Perhaps it's easier, Mr. Tabuns, if we just deal with your motion. You want 32(b) to be struck out. I think that's probably simpler and easier to do.

Mr. Tabuns: Yes.

The Vice-Chair: Mr. Klees, do you have any comments?

Mr. Klees: No.

Mr. Tabuns: I'd like it recorded, if there's no other debate.

Ayes

Tabuns.

Nays

Delaney, Ramal, Rinaldi, Sergio.

The Vice-Chair: It is defeated.

Shall section 32 carry? Carried.

Mr. Tabuns, you're next; page 42.

Mr. Tabuns: I move that clause 33(1)(a) of the bill be struck out and the following substituted:

"(a) naming any body corporate or association responsible"—

The Vice-Chair: Mr. Tabuns, I believe this is redundant.

Mr. Tabuns: I think that's right. I will withdraw.

The Vice-Chair: Mr. Ramal?

Mr. Ramal: I move that clause 33(1)(a) of the bill be struck out and the following substituted:

"(a) amending schedule 1 in any way, including,

"(i) naming professions as regulated professions and setting out the date on which this act first applies to such a regulated profession, and

"(ii) removing any regulated profession from schedule 1."

The Vice-Chair: Discussion?

Mr. Tabuns: What are the circumstances under which 33(1)(a)(ii) would be exercised?

Mr. Ramal: Sorry? What's the question?

Mr. Tabuns: What are the circumstances under which removal of a regulated profession from schedule 1 would be exercised?

Mr. Ramal: Counsel.

Mr. Lillico: There are circumstances in which professions disappear or they change their name. So it would be necessary to delete the reference that's in schedule 1, if it's no longer appropriate, and either replace it with a new name, if that's what—sometimes professions merge, for example. So that would be the reason for this provision.

The Vice-Chair: Anything further, Mr. Tabuns?

Mr. Tabuns: I appreciate the answer that's been given, and I assume that if someone should ever challenge the removal, we will be able to cite the words of counsel instructing legislators as to the context within which this would happen. So if someone capriciously removed it for political reasons, we'd be able to say, "No, we were told very differently."

The Vice-Chair: Any further discussions? All in favour of this amendment? Opposed? It's defeated.

Mr. Ramal: No, no.

The Vice-Chair: Sorry. All in favour? This is your amendment.

Mr. Klees: It's too late.

The Vice-Chair: Sorry. Mr. Ramal, we'll go back to you, with the concurrence of the committee to do so. All in favour of the government's amendment? Opposed? It's carried.

Mr. Tabuns: It was defeated.

Mr. Klees: You cannot do this.

The Vice-Chair: I'm just getting directions from the clerk. Could we get unanimous consent to go back and deal with this?

Mr. Klees: No.

The Vice-Chair: Well, I'll ask for the vote. All in favour to go back and deal with it? All those in favour? Oh, it has to be unanimous. Okay.

Shall section 33 carry? Carried.

Section 34.

Mr. Tabuns: I understand we've had this debate. I'm going to read this motion. I don't think we need to re-debate. I would like a recorded vote.

I move that section 22.3 of schedule 2 to the Regulated Health Professions Act, 1991, as set out in subsection 34(3) of the bill, be amended by adding the following subsection:

"Scale of reasonable fees

"(2) The college shall have a scale of reasonable fees related to registration and shall provide the fee scale to applicants."

We've had the debate.

The Vice-Chair: Further discussion?

Mr. Tabuns: Recorded vote.

Ayes

Klees, Tabuns.

Nays

Delaney, Ramal, Rinaldi, Sergio.

The Vice-Chair: It's defeated.

1630

Mr. Tabuns: I move that section 22.3 of schedule 2 to the Regulated Health Professions Act, 1991, as set out in subsection 34(3) of the bill, be amended by adding the following subsection:

"Exception

"(3) The college shall not charge a fee for making records available to an applicant for the purposes of the applicant's preparation for a hearing or review by a panel of the registration committee or by the board."

Arguments have been made. Unless there are others, I just call for a recorded vote.

Ayes

Klees, Tabuns.

Nays

Delaney, Ramal, Rinaldi, Sergio.

The Vice-Chair: It's defeated.

Page 47, Mr. Ramal. We'll get it right this time.

Mr. Ramal: I move that subsection 22.4(2) of schedule 2 to the Regulated Health Professions Act, 1991, as set out in subsection 34(3) of the bill, be amended by striking out "retains" and substituting "relies on."

This debate is similar.

The Vice-Chair: Further discussion?

All in favour? Opposed? It's carried.

Mr. Tabuns, page 48.

Mr. Tabuns: I move subsection 22.4(2) of schedule 2 to the Regulated Health Professions Act, 1991, as set out in subsection 34(3) of the bill, be amended by striking out "take reasonable measures to."

I've made my arguments before, Mr. Chair. If there's a vote without debate, I'd like it recorded.

Ayes

Klees, Tabuns.

Nays

Delaney, Ramal, Rinaldi, Sergio.

The Vice-Chair: It's defeated.

Mr. Ramal.

Mr. Ramal: I move that clause 22.4(3)(a) of schedule 2 to the Regulated Health Professions Act, 1991, as set out in subsection 34(3) of the bill, be struck out and the following substituted:

"(a) training on how to assess such qualifications and make such decisions."

I think we also talked about this one before.

The Vice-Chair: Discussion?

All in favour? Opposed? It's carried.

Mr. Tabuns.

Mr. Tabuns: I move that subsection 22.4(3) of schedule 2 to the Regulated Health Professions Act, 1991, as set out in subsection 34(3) of the bill, be amended by striking out "and" at the end of clause (a), by adding "and" at the end of clause (b) and by adding the following clause:

"(c) anti-discrimination, anti-racism, cultural competency and human rights training."

Unless there's further debate, Mr. Chair, I'd ask for a recorded vote.

Ayes

Klees, Tabuns.

Nays

Delaney, Ramal, Rinaldi, Sergio.

The Vice-Chair: It's defeated.

Mr. Tabuns: I move that section 22.4 of schedule 2 to the Regulated Health Professions Act, 1991, as set out in subsection 34(3) of the bill, be amended by adding the following subsections:

"Time for making decisions

"(4) Subject to subsection (5), the college shall ensure that its registration decision is made within six months of receiving an application for registration.

"Extension of time

"(5) The college may, from time to time, extend the time for the making of a registration decision if required documentation is not available to it or if, for reasons beyond its control, it is unable to complete its assessment of the applicant.

"Same

"(6) The college shall not extend the time for making a registration decision by more than three months at a time and it shall give written reasons to the applicant at the time of making the extension."

We have had that debate, Mr. Chair.

The Vice-Chair: Do you want a recorded vote?

Mr. Tabuns: I do indeed.

Ayes

Klees, Tabuns.

Nays

Delaney, Ramal, Rinaldi.

The Vice-Chair: It's defeated.

Mr. Tabuns, page 52.

Mr. Tabuns: I move that section 22.4 of schedule 2 to the Regulated Health Professions Act, 1991, as set out in subsection 34(3) of the bill, be amended by adding the following subsection:

"Appeals: duty of minister

"(7) The minister shall ensure that the board has appropriate resources to quickly consider and decide on any internal review or appeal of a registration decision."

I want to note that Thomson, in his executive summary, page XII, noted that with respect to tribunals regarding HPARB, "With respect to both tribunals, there are concerns about the level of training and support for adjudicators, including the level of per diem payments to attract highly qualified adjudicators. Other concerns include timeliness of the HPARB process and the general lack of support to applicants."

I just want to say to the government, Judge Thomson brought to your attention that there's a problem with the appeals process under HPARB. That needs to be addressed. The opportunity presents itself to you today to amend your legislation so you can address the problem

that your commission pointed out to you, and I would ask you to take action to correct it.

The Vice-Chair: Further discussion? Recorded vote?

Mr. Tabuns: Yes, I do.

Ayes

Tabuns.

Nays

Delaney, Ramal, Rinaldi.

The Vice-Chair: It's defeated.

Page 53, Mr. Tabuns.

Mr. Tabuns: I move that section 22.4 of schedule 2 to the Regulated Health Professions Act, 1991, as set out in subsection 34(3) of the bill, be amended by adding the following subsection:

"Examinations

"(8) The college shall establish an examination review committee that shall review all examinations and other tests, including questions to be asked at oral interviews, to ensure that the examinations and other tests are non-discriminatory, anti-racist and culturally sensitive."

I believe we've had the debate. Recorded.

Ayes

Klees, Tabuns.

Nays

Delaney, Ramal, Rinaldi.

Mr. Tabuns: Page 54 is withdrawn as redundant.

The Vice-Chair: Thank you, Mr. Tabuns. Mr. Klees?

Mr. Klees: I move that subsection 22.5(1) of schedule 2 to the Regulated Health Professions Act, 1991, as set out in subsection 34(3) of the bill, be amended by adding the following clause:

"(b.1) consult with colleges on matters to be specified under clause (b) before they are specified and provide the colleges with an opportunity to make submissions in writing on the matters."

We believe that it's important that the colleges be consulted on the scope of the standards of the timeline for audits and so on. I think it's important that we understand that the commissioner will not have all of the information available to him relative to these specific colleges. There may be some advice that the commissioner would find helpful in establishing the scope and the timeline for audits. We believe broader consultation would be helpful under the circumstances.

The Vice-Chair: Further discussion? Recorded vote?

Mr. Klees: Yes, please.

Ayes

Klees, Tabuns.

Nays

Delaney, Ramal, Rinaldi.

The Vice-Chair: It's defeated.

Mr. Tabuns: I move that clause 22.5(1)(c) of schedule 2 to the Regulated Health Professions Act, 1991, as set out in subsection 34(3) of the bill, be struck out and the following substituted:

"(c) establish eligibility requirements that a person must meet to be qualified to conduct audits including demonstrated competency in the protection of human rights and the understanding of discrimination."

I've made the arguments in an earlier part of the meeting.

The Vice-Chair: All in favour of this amendment?

Mr. Tabuns: Recorded.

Ayes

Tabuns.

Nays

Delaney, Ramal, Rinaldi.

The Vice-Chair: It's defeated. Page 56, Mr. Ramal, please.

Mr. Ramal: I move that clauses 22.5(1)(e), (f) and (g) of schedule 2 to the Regulated Health Professions Act, 1991, as set out in subsection 34(3) of the bill, be struck out and the following substituted:

"(e) consult with colleges on the cost, scope and timing of audits;

"(f) monitor third parties relied on by a college to assess the qualifications of individuals applying for registration by the college to help ensure that assessments are based on the obligations of the college under this code and the regulations;

"(g) advise a college or third parties relied on by a college to assess qualifications with respect to matters related to registration practices under this code and the regulations."

I think this will strengthen the bill. It shows our commitment toward the implementation and a fair balance between the college, the regulatory body, and applicants.

The Vice-Chair: Further discussion? All in favour of the amendment? Carried.

Mr. Ramal: I move that the French version of clause 22.5(1)(h) of schedule 2 to the Regulated Health Professions Act, 1991, as set out in subsection 34(3) of the bill, be amended by striking out "du présent code."

1640

The Vice-Chair: Mr. Ramal?

Mr. Ramal: Some kind of technical—just linguistic.

The Vice-Chair: Discussion? All in favour of the amendment? Opposed? It's carried.

Mr. Tabuns, please.

Mr. Tabuns: I move that subsection 22.5 of schedule 2 to the Regulated Health Professions Act, 1991, as set out in subsection 34(3) of the bill, be amended by adding the following subsection:

"Evaluation of professional standards

"(1.1) The fairness commissioner shall evaluate professional standards of professions in other jurisdictions and their educational standards in comparison to the standards for health professions in Ontario and he or she shall update the evaluations regularly and make the evaluations available to the public."

Our arguments would be the same as those I had made in the earlier part of this debate. I'd like a recorded vote.

Ayes

Klees, Tabuns.

Nays

Delaney, Ramal, Rinaldi, Sergio.

The Vice-Chair: Defeated.

Page 59, Mr. Tabuns, please.

Mr. Tabuns: I move that subsection 22.5 of schedule 2 to the Regulated Health Professions Act, 1991, as set out in subsection 34(3) of the bill, be amended by adding the following subsection:

"Publication of information

"(4) The fairness commissioner shall make the following information available to the public either electronically or by such other means as he or she considers appropriate and the information shall be made available without charge:

"1. Information related to this act and the duties of the colleges under this act.

"2. Information on the functions of the fairness commissioner.

"3. Information on the functions and programs of the access centre.

"4. Information that the fairness commissioner is required to make available to the public under this act.

"5. The annual report of the fairness commissioner."

That's it. We've had this debate.

The Vice-Chair: Thank you, Mr. Tabuns.

Mr. Tabuns: Recorded.

Ayes

Klees, Tabuns.

Nays

Delaney, Ramal, Rinaldi, Sergio.

The Vice-Chair: Page 60.

Mr. Tabuns: I move that subsection 22.6(2) of schedule 2 to the Regulated Health Professions Act, 1991, as set out in subsection 34(3) of the bill, be amended by striking out “and” at the end of clause (b), by adding “and” at the end of clause (c) and by adding the following clause:

“(d) the racial, cultural, linguistic and gender diversity of the individuals assessing qualifications and making registration decisions.”

Mr. Chair, I’ve made the arguments. Recorded vote when you hold it.

Ayes

Klees, Tabuns.

Nays

Delaney, Ramal, Rinaldi, Sergio.

The Vice-Chair: It’s defeated.

Mr. Ramal, please.

Mr. Ramal: Mr. Chair, can I ask for a recess for 10 minutes? Something was not given to me here. I have to consult my people first.

The Vice-Chair: If I can ask, does it have to do with the previous thing we dealt with?

Mr. Ramal: It’s dealing with this motion here.

The Vice-Chair: Mr. Klees has very kindly suggested that if I ask for unanimous consent at the end to go back and fix that glitch that happened, we could deal with that at the end, if that’s what your recess is suggesting. Is it, Mr. Ramal?

Mr. Ramal: Definitely.

The Vice-Chair: Okay. We’ll finish dealing with section 34, and then I will ask for unanimous consent to go back and repair this small glitch at the end, if that’s acceptable. I just want to deal with section 34 first. I appreciate everybody’s co-operation.

Mr. Klees: Did we cause all of this?

The Vice-Chair: I haven’t seen so much activity since I was near a beehive and everybody was moving. We try to retain our sense of humour around here a bit. Mr. Ramal?

Mr. Ramal: You are a good Chair, Mr. Chair. You’re always a problem-fixer here.

The Vice-Chair: After I finish here, that may be a debatable thing, but keep going.

Mr. Ramal: I move that subsection 22.8(15) of schedule 2 to the Regulated Health Professions Act, 1991, as set out in subsection 34(3) of the bill, be struck out and the following substituted:

“Auditor’s fees and expenses

“(15) The college shall pay the auditor’s fees and expenses.”

The Vice-Chair: Further discussion?

Mr. Tabuns: For Mr. Ramal: What’s the implication of this in terms of applicants? If you remember, when the College of Physicians and Surgeons came before us—

whether they were being direct or indirect, I don’t know—they suggested that such audit fees would be put on the shoulders of those who were making application and thus could pose a substantial barrier. I’d like to know if this would result in substantial costs being assessed to applicants.

Mr. Ramal: As you know, if you want to have a strong bill, you have to have some kind of audit mechanism in order to keep the regulated body honest and balanced in their approach. Therefore, if there is any expense, of course, the college should pay that expense. Talking about engineers, for instance, they have 75,000 members. So if there is any expense, it will be very, very minor. I would recommend this. It’s just clarification. To be clear in this bill and to give us some kind of strength, we added this amendment to follow on our commitment.

Mr. Tabuns: So in your opinion, this will have negligible impact on applicants and registrants?

Mr. Ramal: I didn’t say “negligible.” I said it is necessary to have an audit mechanism that the colleges should submit to the fairness commissioner in order to keep them balanced and to see their conduct over the years.

Mr. Tabuns: Do you think that this will result in charges that will become a barrier to internationally trained individuals?

Mr. Ramal: We don’t think so.

Mr. Tabuns: Okay. Maybe I’m wrong and maybe I missed it, but does this apply to professions that are not covered under the Regulated Health Professions Act? You’ve got it here. Did you have an amendment in the early part of the act?

Mr. Ramal: Yes, we have it here.

Mr. Tabuns: This is the Regulated Health Professions Act. What about the professions not covered by the RHPA? Who pays for those audits?

Mr. Ramal: I’ll have legal speak to this.

Mr. Lillico: There is a parallel provision in relation to the non-health professions, and that’s in 20(15). The reason that this motion is here is because there was a lack of parallelism in the language in relation to the health and non-health. For the non-health professions, the bill uses the term “fees and expenses”; for the health professions, it uses a different term: “cost.” The only reason for this amendment is to make the language parallel. It’s not meant to change anything of substance. It’s just to clean up the wording, just to make it match.

Mr. Tabuns: Okay. Thank you, Mr. Lillico.

Mr. Klees: I just want to say that I don’t have a particular argument with the requirement to pay. Someone has to pay fees, but what I do want to emphasize is, that’s the reason I put forward the amendment that the government turned down, and that is that the regulated professions are consulted at the time that the scopes of these audits are determined. Knowing they’ll have to pay for them, the thinking is—I think, rightfully so—that they should be party to setting a framework for those audits. But the government chose to turn that amendment down. To Mr. Tabuns’s point: These costs are going to

be passed along. If the colleges had the opportunity to at least consult and provide some additional information at the time the scope was being determined, I think there would have been an opportunity to save some money here, not only for the colleges but ultimately for who this is all about, and that's the applicants for registration, 1650

The Vice-Chair: Any further discussion? All in favour of this amendment? Opposed? It's carried.

Mr. Tabuns.

Mr. Tabuns: I just want to make note of what happened there.

I move that schedule 2 to the Regulated Health Professions Act, 1991, as amended by subsection 34(3) of the bill, be amended by adding the following section:

"Minister's orders

"22.11.1(1) In addition to his or her powers under the Regulated Health Professions Act, 1991, or any other act, the minister may, on the advice of the fairness commissioner, order the college to change its registration practices in such manner as is set out in the order.

"Conflict

"(2) If there is a conflict between an order under subsection (1) and a regulation that governs the college, the order prevails.

"Procedure and appeals

"(3) Sections 26 to 28 of the Fair Access to Regulated Professions Act, 2006, apply to orders made under this section."

I made an analogous argument earlier. It doesn't look like there's a lot of debate flowing from the government side, so you may want to go to a recorded vote, Mr. Chair.

Ayes

Klees, Tabuns.

Nays

Delaney, Ramal, Rinaldi, Sergio.

The Vice-Chair: It's defeated.

Mr. Tabuns, I believe that makes the one on page 63 redundant, because it's appended to 62.

Mr. Tabuns: That's correct.

The Vice-Chair: So you're withdrawing that one?

Mr. Tabuns: I am indeed.

The Vice-Chair: Mr. Ramal, page 64, please.

Mr. Ramal: I move that the French version of clause 22.14(b) of schedule 2 to the Regulated Health Professions Act, 1991, as set out in subsection 34(3) of the bill, be amended by striking out "audience que tient l'ordre, le comité d'inscription, la Commission ou un tribunal" and substituting "instance de l'ordre, du comité d'inscription, de la Commission ou d'un tribunal."

It's some kind of technical language stuff.

The Vice-Chair: Discussion?

Mr. Tabuns: This is simply the French version?

The Vice-Chair: Is this the French version, Mr. Ramal?

Mr. Ramal: Yes.

The Vice-Chair: Further discussion? All in favour? Carried.

Mr. Tabuns: Mr. Chairman, I need legislative counsel to do another quick, scribbled amendment for me because I'd like to vote that we strike out 22.14(b) in English: "has status at any proceeding of a college...."

Interjection.

Mr. Tabuns: We voted in French—there was a wording to make things consistent. It was fine with me; I don't care if the wording's consistent. But whether or not we should adopt this amended section—I'm opposed to that.

The Vice-Chair: Could I just ask committee counsel—

Interjection.

The Vice-Chair: It seems to me we just voted on this amendment.

Mr. Tabuns: You amended it. Well, I don't believe we should adopt 22.14(b). You want to amend the wording of 22.14(b) in French or English.

The Vice-Chair: You want to vote on that subsection.

Mr. Tabuns: That's correct, as I have done earlier with section 32.

The Vice-Chair: We just want to make sure we make no mistakes here.

Mr. Donald Revell: I want to check it against the bill just briefly.

Mr. Tabuns: I've again been handed a very useful wording.

I move that clause 22.14(b) of schedule 2 to the Regulated Health Professions Act, 1991, as set out in subsection 34(3) of the bill, be struck out.

Again, it's making sure that the fairness commissioner has the ability to intervene in a hearing on behalf of applicants so that they have that support.

I'd like a recorded vote.

Ayes

Klees, Tabuns.

Nays

Delaney, Ramal, Rinaldi, Sergio.

The Vice-Chair: That section remains. Number 65: Mr. Delaney.

Mr. Bob Delaney (Mississauga West): I move that clause 22.14(c) of schedule 2 to the Regulated Health Professions Act, 1991, as set out in subsection 34(3) of the bill, be amended by striking out "hearing" wherever it appears and substituting in each case "proceeding."

The Vice-Chair: Discussion? Mr. Tabuns.

Mr. Tabuns: Why?

Mr. Ramal: They use "proceeding" rather than "hearing" to reflect the fact that "hearing" is not con-

sistent with the language of the RHPA. So whenever it appears, in many different places, it's just technical stuff, for clarification.

Mr. Tabuns: Fair enough. Thanks for the explanation.

Mr. Klees: Mr. Chair, I just want to say how disappointed I am that we've gone through many hearings on this bill, we have heard what I consider to be some very constructive amendments brought forward by the opposition, and the record now shows that not one single amendment by the opposition parties has been accepted by this government.

I think it speaks, frankly, to the dysfunction of our process. The expectation of the public is that when we come together for public hearings, when we meet in committee like this, the process of proposing amendments and voting on them will be exercised with a sense of responsibility as individual members of this committee and of the Legislature. This process has shown again that there is a need for a reform of how we do business in this place. No one can tell me that not one single amendment that Mr. Tabuns has brought forward on behalf of the NDP and not one single amendment that I have brought forward on behalf of the Ontario Progressive Conservative caucus had merit and that it wouldn't be considered to strengthen the bill.

So my comment is very simply this: I understand it. I know what's happening. But it's not right, and at some point we're going to have to deal with this. It's no wonder that the public is cynical about politicians and about the political process when they see demonstrations such as we've seen in this committee.

The Vice-Chair: Thank you, Mr. Klees.

Shall section 34—sorry, Mr. Delaney. You have one more—

Mr. Sergio: No. We have to vote on that motion.

The Vice-Chair: Okay. All in favour of the amendment on page 65? Opposed? It's carried.

Shall section 34, as amended, carry? Carried.

I would now ask that we have unanimous consent to reopen section 33 and Mr. Ramal's amendment that appears on page 43. Is there unanimous consent to do that? Agreed. We'll go back to page 43. Mr. Delaney, please.

Mr. Delaney: I move that clause 33(1)(a) of the bill be struck out and the following substituted:

"(a) amending schedule 1 in any way, including,

"(i) naming professions as regulated professions and setting out the date on which this act first applies to such a regulated profession, and

"(ii) removing any regulated profession from schedule 1."

The Vice-Chair: Discussion?

Mr. Ramal: I guess we listened to the legal counsel from the ministry.

The Vice-Chair: No discussion? All in favour of this amendment? Carried.

All in favour of section 33, as amended? Carried.

Just for the record, I'd like to note Mr. Klees's and Mr. Tabuns's co-operation to go back and fix this glitch. I want to thank you two gentlemen for doing that.

Shall sections 35 and 36 carry? Carried.

Mr. Delaney, page 66.

Mr. Ramal: We did that.

The Vice-Chair: It's done? Thank you.

Shall the title of the bill carry? Carried.

Shall Bill 124, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? That's carried.

Okay, we're done. We'll adjourn.

The committee adjourned at 1702.

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**Standing committee on
regulations and private bills**

**Comité permanent des
règlements et des projets
de loi d'intérêt privé**



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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLS

Wednesday 13 December 2006

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ

Mercredi 13 décembre 2006

*The committee met at 1001 in committee room 1.*PERIMETER INSTITUTE ACT, 2006
CENTRE FOR INTERNATIONAL
GOVERNANCE INNOVATION ACT, 2006

Consideration of Bill Pr31, An Act respecting the Perimeter Institute, and Bill Pr32, An Act respecting the Centre for International Governance Innovation.

The Chair (Ms. Andrea Horwath): Good morning, members of the committee. I'm going to call the committee meeting to order. We're going to start with Bill Pr31, An Act respecting the Perimeter Institute. The sponsor of the bill is MPP Elizabeth Witmer and the applicants are Frank Volpini, who is legal counsel, and John Matlock, who is director of communications. Thank you for joining us at the end of the table. We'll begin the discussion with a few words from the sponsor, MPP Witmer, if you want to make a few remarks.

Mrs. Elizabeth Witmer (Kitchener-Waterloo): It's certainly a pleasure for me to be here today and to sponsor Bill Pr31. The board of directors for the Perimeter Institute has applied for special legislation to exempt certain land from taxation for municipal and school purposes. I just want to tell you that the Perimeter Institute is a not-for-profit corporation. Its purpose is to operate a research institute in foundational, theoretical physics. Certainly, it has made a tremendous contribution to physics and research, not only in the community of Waterloo, but throughout Ontario and Canada. I am very, very proud to be able to sponsor this bill.

The Chair: If the applicants want to make a comment, although we only have two people on our agenda, so you need to introduce yourselves, all three.

Mr. Frank Volpini: Good morning. My name is Frank Volpini. I'm counsel for the applicant. Madam Chair, I was wondering, in the interest of time and given that the two bills are similar in every way, if I can make my submissions on both. I appreciate your practice is to discuss and vote on a bill-by-bill and section-by-section basis. If I can make one set of submissions and then answer whatever questions members may have.

The Chair: Certainly that's fine, but if you could begin by introducing the other people at the table, that would be great. Unless there's a problem from the government or the other side—

Mr. Mario Sergio (York West): We have no problem.

The Chair: If there is unanimous consent for that, that's fine, then. Go ahead.

Mr. Volpini: On my right on behalf of the Perimeter Institute is director of communications John Matlock. On my left from the centre is Mr. Mohamed Hamoodi. He's director of government and public affairs.

Everyone has reviewed the material, I'm sure, but just by way of background—

Interjection.

Mr. Volpini: We could leave it open just to questions if you wish, if that is the preference. The material that's filed with the compendium is relatively self-explanatory. There's a background paper that was prepared by both Mr. Matlock and Mr. Hamoodi that gives you some of the background information with respect to what the operational side of the two applicant corporations is all about. They're here if there are any other questions that any member may wish to pose. If there's something else that you want to get more detail on, they're available for that purpose.

Both corporations, as I said, are non-profit corporations and have a charitable designation. The one matter that will be addressed shortly by way of a motion is the one that I think will be moved at the time that section is going to be debated. For clarification purposes, the reference to upper- and lower-tier will be made clear. That was just as a result of discussions had with the various departments.

The Chair: It's certainly your opportunity to put on the record any particular comments that you like, but if you prefer to go with the question and answer process, that's certainly fine as well. So thank you very much for that.

Mr. Jeff Leal (Peterborough): Thanks for being with us this morning. We know great things come out of Waterloo: the invention of RIM, Research in Motion. It was actually a Peterborough native, Jim Balsillie. I always like to get a plug in for our local community.

You're doing research in physics. What's the practical application? At the end of the day, what are we going to get as a result of your fine research, which is important internationally?

Mr. John Matlock: Perimeter Institute currently conducts research operations in six areas, quantum

information theory being one of the highly competitive areas that is emerging in Waterloo region—in Ontario, in fact—with direct application in terms of quantum cryptography, quantum teleportation and quantum computing. In fact, through the strategic plan of Perimeter Institute, we were able to help foster the development of the Institute for Quantum Computing. So what you see on chalkboards, coming off blackboards at Perimeter Institute, actually finds its way into labs at the Institute for Quantum Computing for testing.

Beyond the technical applications in the burgeoning area of quantum communications, which is multifaceted, the institute has also attracted some 65 resident researchers to Ontario, and that is fostering all kinds of activities among graduate students, post-docs—cross-pollination among 30 universities across Canada. So in fact the complement of research in terms of the basic foundational issues that we endeavour to pursue is raising the level across Ontario and Canada in terms of applied research as well. It's a combination of the application and, frankly, the brain trust that we're developing here in Ontario.

Mr. Leal: Just a short follow-up: What's the lag between once you've completed your applied research and it goes to the commercial stage for a product or a service?

Mr. Matlock: If I might clarify, we're in foundational research. We're in basic, pure research. We publish in the public domain. We have 600 scientific findings in areas of basic research where we've extended existing theories that are then published in the public domain. These are 49 online peer-reviewed journals. From there, it moves into applied locations, again all across Ontario and Canada, where it's then developed and modified further and different researchers take that to the next level.

Giving you an exact timeline on areas of application from cosmology to particle physics to quantum information theory is a little difficult without going into a much, much longer discussion. But the fundamentals are all in place. Our information is put into the public domain for the next level of researchers in applied to pick up and pursue in labs.

Mr. Leal: Thanks very much.

Mr. Dave Levac (Brant): I appreciate the opportunity to congratulate both proponents. The bill in its simplicity is to seek tax exemption status as any other institute would. Up to this point you have not and that money has been going toward paying taxes. The implication would be that those taxes then would be going back into your foundations or back into your work, which then benefits us as a whole. So in terms of rationale, it would be very easily explained that the taxes paid will go back into it and then complement and add to what you're already doing. Is that a simple way to say it, in terms of this particular bill?

Mr. Matlock: In the case of Perimeter Institute, we would like to maximize all resources toward the scientific research and the educational outreach activities.

Mr. Levac: Absolutely. I fully endorse that.

Madam Chair, our parliamentary assistant probably has comment at the end in terms of where we are and stuff, but as far as I'm concerned, I congratulate you on your work on both. If I have clarity, once this round is finished, then we would do both bills at the same time and move through each one, but get them done?

1010

The Chair: Yes. Once we're finished with the comments from members and the parliamentary assistant, we'll do each bill in its entirety.

Mr. Levac: Okay, thank you.

I would thank Liz Witmer, the member, for bringing this forward; I know you have strong support from her. The fact is that Waterloo has such diverse educational institutions and they have good reputations. So it's my chance to put myself on the record as a Laurier alumnus, and the fact that Laurier Brantford exists now—we are sisters or brothers or persons in arms with the educational field. I congratulate you on all the work you do and wish you success and good luck.

The Chair: Any other comments from members?

Mr. Gilles Bisson (Timmings-James Bay): You talked about quantum teleportation. What is that?

Mr. Matlock: I'm not a trained physicist; I can certainly get you documentation. That's the movement of information.

Mr. Bisson: I'm just curious. I have no problem supporting the bill, but the work that you do is the base research for the technologies or the theory that goes into the development of technologies around the information around computers and stuff?

Mr. Matlock: Yes. It's the basic fundamental understanding of how nature works at a fundamental level. So for example, in the area of quantum information, the basic understanding of how the atom works; how particles work and have a fundamental capacity to store and compute information; and how researchers and experimentalists can develop and evolve that understanding into new applications and new technologies.

Mr. Bisson: So you're talking about storage mediums other than silicon, like biological?

Mr. Matlock: We're talking about the ability of particles and basic properties within that subatomic world that can be harnessed to manipulate information.

Mr. Bisson: Which would mean, in the end, you would be able to have smaller storage mediums, I would take it, if that technology—

Mr. Matlock: Absolutely.

Mr. Bisson: And also an ability to speed up the process as far as the—

Mr. Matlock: In terms of computational horsepower, absolutely.

Mr. Bisson: So my question is, as far as people who do this type of research, is this fairly unique in Ontario, or are there others other than at the university level?

Mr. Matlock: Right. In terms of the fundamental understanding of information theory at the quantum level, Perimeter Institute is the pre-eminent centre for this pursuit—

Mr. Bisson: In Ontario or in North America?

Mr. Matlock: —in Ontario and, in fact, in all of Canada. We're one of a handful in the world who are pursuing it as aggressively as we are, with incredible results.

Mr. Bisson: So this is really extremely cutting-edge stuff?

Mr. Matlock: Absolutely.

Mr. Bisson: When I used to watch those Star Trek shows back in the 1960s, you guys are going down that road.

Mr. Matlock: We're into areas where it's—it depends what you consider information. This is a long conversation.

Mr. Bisson: As far as the capacity to be able to store information in smaller—

Mr. Matlock: Yes. We're trying to understand the world at the atomic level and then find ways to use the strange principles in the weird world of the atom called superposition and entanglement to store information and calculate information.

Mr. Bisson: Just a last question. I find this fascinating, and I know this is off the bill, but the last question: How far away are we from any major leaps in understanding of this stuff?

Mr. Matlock: Presently, between Perimeter Institute and the Institute for Quantum Computing, Ontario is the world record holder in controlling what are called cubits, or bits of information. That happens to be 12 cubits. This did not come without a lot of research and experiment. It's very hard to predict in the short term what the next big breakthrough will be. I can just tell you that the next big direction in information processing is in quantum theory, and that's one of the exact areas of several that Perimeter Institute is leading the charge in.

Mr. Bisson: If the committee will indulge, I tried to read a book by a scientist on quantum theory. I got to about page one and a half.

Interjection: His name was Spock.

Mr. Bisson: Yes, something like that.

The Chair: Thanks very much. Mr. Delaney, I think, has some questions.

Mr. Bob Delaney (Mississauga West): More, I think, in the realm of the same type of curiosity, you mentioned subatomic particles. Would these be of the type—mesons, leptons, pions, kaons? Could you elaborate?

Mr. Matlock: Perimeter investigates a whole spectrum of science, right from super string theory to cosmology. Within the area that we've been talking about, in terms of quantum theory, we're talking about electrons, protons, nucleus.

Mr. Delaney: Okay. So not the subatomic, but in fact the atomic particles.

Mr. Matlock: Right, and how the particles dance.

Mr. Delaney: Thank you.

The Chair: Are there any other comments from members? Then I will ask for comments from the parliamentary assistant.

Mr. Sergio: Thank you, Madam Chair. It's good to get back to the application hearing, leaving science behind for a moment and speaking on both bills.

First of all, I'd like to compliment the member for Kitchener-Waterloo for bringing not only one but both bills—frankly, both identical, Madam Chair. The bills have been reviewed by both ministries—the Ministry of Finance and the Ministry of Municipal Affairs and Housing—and they are pleased to see that any concern they may have had with the application has been resolved to the satisfaction of both ministries. Therefore, they have no concern with the application.

Therefore, I compliment the member for bringing it forth. I can see that she came with a lot of support here, supporting her bills. It's good to see, and we move both bills along, Madam Chair.

The Chair: Thank you very much. I don't suspect there are any further questions of the parliamentary assistant, so we're going to go through the process of the bill. Are members ready to vote, then? Okay, that's great.

We're going to start with Bill Pr31, An Act respecting the Perimeter Institute.

Shall section 1 carry?

Mr. Gerry Martiniuk (Cambridge): I still have an amendment to that, Madam Chair.

The Chair: I'm sorry?

Mr. Martiniuk: Madam Chair, I have an amendment which deals with section 2.

The Chair: Yes, I believe it's in section 2.

Mr. Martiniuk: I'll leave it till then. Thank you.

The Chair: Section 1 is as is. Shall section 1 carry? Carried.

On section 2, Mr. Martiniuk.

Mr. Martiniuk: I move that section 2 of the bill be amended by adding the following subsection:

"Exemption applies to lower-tier and upper-tier taxes

"(3) For greater certainty, a bylaw passed under subsection (1) or (2) exempts the relevant property from both lower-tier and upper-tier taxes for municipal purposes, other than local improvement rates."

I think it's clear that this just clarifies the original drafting to ensure that the mechanism applies to both local and regional governments.

The Chair: No further comments on that; it's pretty clear.

Shall the amendment carry? Carried.

Shall section 2, as amended, carry? Carried.

Shall section 3 carry? Carried.

Shall section 4 carry? Carried.

Shall section 5 carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill Pr31, as amended, carry? Carried.

Did I miss the preamble? Shall the preamble carry? Carried.

Shall I report the bill, as amended, to the House? Carried.

That's great. Thank you very much. Congratulations. One down, one to go.

Bill Pr32, An Act respecting The Centre for International Governance Innovation, as sponsored by Ms. Witmer: Again, we'll have a similar amendment, but section 1 is not amended, from what I can see.

Shall section 1 carry? Carried.

Mr. Sergio: Madam Chair, I believe there's an amendment as well.

The Chair: On section 2? Mr. Martiniuk?

Mr. Martiniuk: I have an amendment. I move that section 2 of the bill be amended by adding the following subsection:

"Exemption applies to lower-tier and upper-tier taxes

"(2) For greater certainty, a bylaw passed under subsection (1) exempts the specified property from both lower-tier and upper-tier taxes for municipal purposes, other than local improvement rates."

The Chair: I guess it's exactly the same situation. I don't believe there are any comments on that.

On the amendment, all those in favour? Any opposed? That carries.

Shall section 2, as amended, carry? Carried.

Shall section 3 carry? Carried.

Shall section 4 carry? Carried.

Shall section 5 carry? Carried.

Shall the preamble carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill Pr32, as amended, carry? Carried.

Shall I report the bill to the House, as amended? Carried.

Thank you very much.

Mrs. Witmer?

Mrs. Witmer: Just one comment: I would like to thank the committee for passing both of these bills. I would also at this point in time like to extend an invitation to the committee. I sensed there was some interest when we discussed Perimeter and the activities that were ongoing. There are wonderful sights to see and there are wonderful sessions that are held. I know my husband, who wishes he was involved in physics—often the community has the opportunity to participate; our schoolchildren do. I hope that you'll be able to visit.

I didn't have a chance to speak to the Centre for International Governance Innovation, but I would just say to you that, again, this is a research institute. It brings people from around the world. People from the United Nations have had weekend sessions there, conferences, and just the dialogue that takes place—it's truly a world-renowned centre. It talks about being so, and it is. Again, I hope that sometime you will receive invitations to participate and listen to some of these outstanding speakers and really get involved in finding some of the solutions in the area of world governance. Thank you very much.

The Chair: Thank you very much, and congratulations. That's great.

Members of committee, our next group was going to be here for 10:30. I don't expect them to be much earlier than that, so if we could do a five- or seven-minute recess until they arrive, that would be great.

The committee recessed from 1021 to 1028.

SHEENA'S PLACE ACT, 2006

Consideration of Bill Pr29, An Act respecting Sheena's Place.

The Chair: We're starting the meeting back to order. Thank you, members, for letting us have that quick recess.

Our next bill is Bill Pr29, which is a bill sponsored by Rosario Marchese. I think he's got the wrong nameplate up there—not that I don't know who he is, but nonetheless, just in case anybody else around here might forget. So we'll start off with a few comments, please, by the sponsor of the bill.

Mr. Rosario Marchese (Trinity-Spadina): Madam Chair, I forget: Do I have to move this bill?

The Chair: No, it's already on the agenda, so you don't have to move it.

Mr. Marchese: We've been through this a couple of times, as some of you know: Rosario Marchese, MPP Trinity-Spadina; Donna Shoom-Kirsch is the executive director. We're happy to be here today again talking about this particular bill.

As you know, it's a hospice for eating disorders. It's a community-based, non-profit organization that provides support services at no cost to people with eating disorders and their families. There are many volunteers who obviously lend their services to this hospice. I've been there a couple of times. I think most of you are familiar with the issue.

Rather than go through the particular matter, they are trying to get an exemption for property taxes for the last eight years. The city needs the approval of the provincial government to be able to do that, and so we come back to this committee seeking the government's approval.

In this regard, I want to thank the minister for the work that he has done to be helpful to us. We're looking forward to the parliamentary assistant saying as much, and then we can just approve it and move on.

The Chair: All right, then. Are there any comments from the applicant?

Ms. Donna Shoom-Kirsch: No.

The Chair: None? Okay, then. First I'm going to ask the parliamentary assistant to make any comments, and then I'm going to do the rounds.

Mr. Sergio: I compliment again the member for Trinity-Spadina for his perseverance and persistence in working with this bill and in support of Sheena's Place. We've had this bill at our committee level a couple of times before, so considerable work has gone into it. I know that it's not only of interest but it's of great importance to Sheena's Place.

We have had the Minister of Finance and the Minister of Municipal Affairs and Housing as well express some concern previously when the bills were in front of the committee. However, this concern has been resolved; it has been allayed now. There has been some correspondence with the city of Toronto, and both ministries no

longer express any concern with the bill. So we would like to move it along.

Again, thanks to the member for Trinity-Spadina and the applicant for the presentation of their bill.

The Chair: Are there any comments from committee members?

Mr. Leal: I note in the background—I'm interested. Could you provide a little more detail on the proactive, preventive programs you're into? Outreach to schools: I'm very fascinated with that side of it.

Ms. Shoom-Kirsch: Yes. We have a volunteer group, and most of them are recovered from an eating disorder. We take requests from teachers, we go into the schools, and we do presentations for prevention purposes. On our website, we have developed curriculum that can be downloaded by people in the community, and they can use it in their presentations, whether it's a Girl Guides group or any other type of community group. We would support them if they wanted, if they had questions. I would say that we reach close to 8,000 people every year in terms of our outreach activities.

Mr. Leal: Thank you very much. You do a very important service.

Mr. Levac: First, Rosario, thank you for bringing this bill forward and sponsoring it. Obviously, I know you enough to know that this is very important to you on a personal level and to your community, so thank you.

A question: It's a hospice. Under my understanding of the definition of hospice, there are some sad news stories involved in your organization.

Ms. Shoom-Kirsch: Yes, but hospice—I think, when it was founded and incorporated, there was some thought that they may have some beds. I think that's why it was incorporated with that name. In fact, our service is mostly hope and support through a group format, so in fact we don't have beds. But yes, this is a disorder that has a mortality rate: 15% of those who are affected die. In the year that I've been with the organization, I've seen two clients die.

Mr. Levac: Yes, that's an unfortunate circumstance that we need to get in front of, and I compliment you for your work. I have a sister who's recovering, and the saving grace there was programs that were available to her to get her on the right track. I compliment you on your work. I fully endorse it, fully support it and thank you for the good work that you do. Make sure that you spread to the staff—it takes a very hard toll on them—my compliments and full support. And I thank the city of Toronto for supporting. We're in the process in Brantford of struggling and continuing to help our hospice survive in that manner. Eating disorders is an extremely important issue to bring to the front, because it was hidden before. I'm glad to see that we're bringing this into the open. I appreciate it very much.

Mr. Martiniuk: I just have one question. I did not find it in the material. I assume this corporation is registered under the federal Income Tax Act as a charity.

Ms. Shoom-Kirsch: Yes.

Mr. Martiniuk: Yes? Thank you very much.

The Chair: Any other comments from members? No? Are the members ready to vote?

Mr. Sergio: Yes.

The Chair: Bill Pr29, An Act respecting Sheena's Place, sponsored by Mr. Marchese, MPP:

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall section 4 carry? Carried.

Shall section 5 carry? Carried.

Shall section 6 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House?

Interjection: Absolutely.

The Chair: Excellent. Thank you very much. Congratulations.

Mr. Marchese: One last note, to thank the committee members, the parliamentary assistant and Mr. Sorbara, because he did do the work to help to solve the problems that we had with respect to this. I'm very thankful for the work you've done.

Like Dave Levac, I'd like to thank not just the executive director but all the staff and the volunteers for the very difficult work that they do and the good work that they do.

The Chair: Excellent. Congratulations, Ms. Shoom-Kirsch.

REVIEW OF REGULATIONS REPORT

The Chair: Members of the committee, we have just one small piece of business that wasn't on the agenda. It's just in regards to the way that we had dealt with our report on the regs. The issue is that the motion was not specific enough, and we need to determine whether or not we wanted to move the report on the regs as an adoption of the recommendations and the report, or just an adoption of the report. I can get the clerk to explain as well—

Mr. Sergio: Say that again?

The Chair: My understanding is that we couldn't report it to the House because the motion that we had wasn't clear. We need to determine specifically whether it's a motion to adopt the report—

Mr. Sergio: As amended?

The Chair: No, just adopt the report, or adopt the report and the recommendations.

The Clerk of the Committee (Ms. Susan Sourial): The report had recommendations at the end of it.

Mr. Sergio: Yes. The report and the recommendations.

The Clerk of the Committee: So you want the recommendations? Okay, that's fine.

The Chair: So just for clarification, it will go to the House with the report and recommendations? Excellent. The difference is, I guess, it stays on the order paper if it's got the recommendations included, and it doesn't.

Mr. Sergio: Perhaps the clerk can advise: Has this been done before? How is it done? Is this the proper way?

The Clerk of the Committee: I went through journals, and in the past it's just, "Shall the report be adopted?"—period—without the recommendations. On occasion, there's been, "Shall the report be adopted?" and then a request that a response be given. Normally, it's just, "Shall the report be adopted?" but you can also put in, "Shall the report and the recommendations be adopted?"

Mr. Sergio: The report and the recommendations?

The Clerk of the Committee: You can put that in.

Mr. Sergio: I think that's fine.

The Chair: We had some fulsome discussion on the recommendations, so it's probably appropriate.

Thank you very much, committee members. Seeing no other business, this committee is now adjourned.

The committee adjourned at 1038.

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(Hansard)**

Wednesday 30 May 2007

**Journal
des débats
(Hansard)**

Mercredi 30 mai 2007

**Standing committee on
regulations and private bills**

**Comité permanent des
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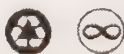
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLS

Wednesday 30 May 2007

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ

Mercredi 30 mai 2007

The committee met at 0901 in committee room 1.

DRAFT REPORT ON REGULATIONS

The Chair (Ms. Andrea Horwath): Good morning, members of the committee. Welcome to the standing committee on regulations and private bills. We are here to review a report, so that's our first order of business. We will have our representative from legislative research, Andrew McNaught, walk us through the report—I believe all members of the committee have the report—and we'll go from there.

Andrew, if you want to begin. Welcome.

Mr. Andrew McNaught: Good morning. I'm Andrew McNaught, the research officer and counsel for this committee, as far as the regulations review goes. I'm here this morning to present the committee's first report on regulations for 2007. I'll begin by briefly refreshing your memories about the committee's role in reviewing regulations.

This committee is required, under the Regulations Act and the standing orders of the House, to conduct a review of regulations made under Ontario statutes each year. For this purpose, the research lawyers at the legislative library act as counsel to the committee. The purpose of the regulations review is to determine whether regulations are being made in accordance with the nine guidelines set out in standing order 106(h). You'll find the standing order in appendix B to the draft report in front of you. For example, the committee's second guideline requires that there must be authority in the enabling statute to make a regulation.

The review procedure that we have developed is as follows: We read the regulations and identify potential violations of the committee's guidelines. We then write letters expressing our concerns to the various legal branches of the ministries responsible for those regulations, and if we feel that a ministry's response does not adequately address our concerns, we include a discussion of that regulation in the draft report that we bring to the committee. The committee then decides whether a particular regulation should be cited in its final report. A final report is then tabled in the Legislature.

The 2007 draft report in front of you is quite short, but I'll go through it with you quickly. On page 1, we have the usual description of the terms of reference of the

committee. Then, starting at the bottom of the page, and through to page 3, we've set out some statistics. The first section provides a statistical overview of the number of regulations made under Ontario statutes from 1991 through to the end of 2006. You'll see that the number of regulations filed in 2006 appears to be within the average range for the period covered by the chart. I also note that appendices C and D to the report contain statistical tables related to regulation-making activity in 2006.

At the bottom of page 2 is a second set of statistics, setting out the number of new regulations filed from 2003 to 2006. New regulations are distinct from regulations that either simply amend or revoke an existing regulation. You'll see from the chart at the top of page 3 that there was a relatively large number of new regulations filed in 2006, as compared with previous years. There are two main reasons for this: First, there were 37 new regulations filed by conservation authorities under the Conservation Authorities Act last year. These were filed in order to comply with a new model regulation that was made in 2004. Secondly, there were 17 new regulations filed in 2006 under the new City of Toronto Act, which took effect on January 1 of this year.

Finally, at the bottom of page 3, we deal with regulations reported. Some of you may recall that in the committee's last report, which was tabled in December, we covered all of the regulations made in 2005 and the first 182 regulations filed in 2006. In that report, we identified a number of regulations filed under three statutes, and we made four recommendations. The draft report before you covers the remaining regulations filed in 2006. As you can see in the last couple of paragraphs, we found no further violations of the committee's guidelines, and so we're proposing in the last sentence there that we not report any further regulations made in 2006. That's the report.

The Chair: Comments from members of the committee?

Mr. Mario Sergio (York West): Madam Chair, I'm moving receipt of the report. I would like to compliment Mr. McNaught and all the staff who participated in drafting this lengthy number of regulations. I move the receipt of the report.

The Chair: So, then, I guess what I'm asking, are you moving receipt of the report or are you moving that the report be adopted by the committee?

Mr. Sergio: Yes.

The Chair: Be adopted by the committee? Okay, Mr. Sergio has moved adoption of the report. Is there any other comment?

Mr. Gerry Martiniuk (Cambridge): In looking at the graph, I don't know whether there's any correlation between the regulations and then the number of statutes passed, either in that year or the year before. I was just thinking it might prove instructive if the graph would indicate on a bar beside each year the number of actual statutes passed so that one could compare. If there is a correlation—I'm sure there is; there must be. I throw that out for the committee's consideration.

Mr. McNaught: We do provide some explanation. For example, in the early 1990s all those health profession acts were passed: the Medicine Act—

Mr. Martiniuk: I understand that.

Mr. McNaught: That did reflect a larger volume of regulations in those years, but it doesn't show up in the chart.

Mr. Martiniuk: You've made a value judgment that the red tape committee was a partial contributor to the lessening of that. Well, that may or may not be. If, in fact, the number of statutes declined and there were fewer new statutes to have regulations, I don't know whether that assumption or inference is correct. I just have no idea. I thought it might prove instructive, but as I say, I'm in the hands of the committee.

Mr. Sergio: Okay.

The Chair: That's fine?

Mr. Sergio: If it is possible for the staff to do that for the next report.

The Chair: For the next report? For the next report, maybe we'll have that added information, the fullness of information for the committee to consider.

Mr. McNaught: Sure.

The Chair: Is there any other debate, any other comment on the report?

Mr. Jeff Leal (Peterborough): Just a quick comment. When you see the regulations drop 34% from 1995 to 1997, to 551, Justice O'Connor in the Walkerton report certainly noted—I think it's about page 511 where he talked about the Red Tape Commission going after the MOE. Justice O'Connor made the link between the Red Tape Commission going after the MOE and activities that were related to Walkerton. That's clearly highlighted. That's not me making that up. It's about 511 in the Walkerton report—it could be 510 or it could be 512.

The Chair: Further comment? Okay. Mr. Sergio has moved the report, so shall the draft report on regulations be adopted? That's agreed. That's unanimous.

Upon receipt of the printed report, shall the Chair present the committee's report on regulations to the House and move the adoption of the recommendations? It's agreed. Thank you very much, members. Thank you very much, Andrew; we appreciate that.

MASTER'S COLLEGE AND SEMINARY ACT, 2007

Consideration of Bill Pr28, An Act respecting Master's College and Seminary.

The Chair: Our next order of business is Bill Pr28, and I'm not sure if everyone is here for that, so if we can just move along. Is that all right? Okay.

The sponsor of the bill is Mr. Delaney. You can stay in your seat if you want to, Mr. Delaney, as well as the principals who are bringing the bill forward. If you'll have a seat and just introduce yourselves. I believe we have on our agenda your names, but for the purposes of the record it would be helpful. Welcome.

Ms. Mary Ruth O'Brien: Madam Chair, my name is Mary Ruth O'Brien. I'm legal counsel for Master's College and Seminary in this matter. I have with me David Hazzard, who is president of the college, and Don Ariss, who is the business administrator for the college.

0910

The Chair: Good morning and welcome. I'm not sure if the sponsor wanted to make a few initial comments.

Mr. Bob Delaney (Mississauga West): The last time Master's College came before the committee, the decision was deferred pending some efforts by Master's College to address some of the concerns of the Ministry of Finance. They've met with me. I'm about to move a motion that the committee can consider and we can make our decision on their application.

The Chair: Did you want to make some comments as well to the committee?

Ms. O'Brien: Yes, I do have some comments, but perhaps the motion should be dealt with first. The motion deals with amendments to update it because we're a year later so we're dealing with a different time frame. It also includes a provision that if we are successful in getting this legislation passed, we will be going back to the city of Toronto, and we have put a sunset clause in our request for relief. That is included in the motion material as well.

The Chair: When we go through the voting of the actual bill, we go through it clause by clause, and that's when the amendments come. If you wanted you could give a more fulsome description, so that when those amendments come, the committee will understand. I'm sure Mr. Delaney will pick up the same themes as you're picking up, but this is probably your best opportunity to give us an explanation, give members of the committee—some might have changed since the last time the bill has been here—an explanation not only of what you're trying to do with the bill but also the amendments that we'll be seeing brought forward by Mr. Delaney. That would probably be a helpful process.

Ms. O'Brien: As you've noted, I think there are a few new faces around the table from last year. Master's College and Seminary has been an institution in Ontario since 1939. It has had various names. It was, for most of its history, known as the Eastern Pentecostal Bible College. It changed its name in 2001 to Master's College

and Seminary. It was originally in Toronto, but was located in Peterborough for over 50 years. Last year, it had a staff of 25 full-time teachers and professors, 133 full-time students and 279 part-time students. It is the seminarian college for the Pentecostal Assemblies of Canada for all of eastern Canada, from Ontario through to Newfoundland.

When it rented premises in Toronto—it's at the corner of Yonge and Lawrence—in 2003, the college thought it was going to be exempt. There was a contact made with an MPAC official, and it was indicated that the tax-exempt status would continue in spite of the fact of it being rented premises. This information later turned out to be incorrect, and ever since then, through the city and through this process, the college has been trying to get tax relief for its rental premises. City officials throughout have been most co-operative. When I was here last year, I had a letter from Councillor Stintz, who had done a canvass of council in support. Since that time, we have obtained a resolution from the city of Toronto; it was passed on April 24. I have copies of the minutes of that meeting indicating that the city strongly supports this private member's bill that we are producing. So clearly, when the time comes, the city will reiterate its support by passing an appropriate bylaw.

Last year, we got into some discussion about the effect of the Municipal Act, section 361. Since then, the City of Toronto Act has come into effect; section 329 has essentially—I think, word for word—the same provision as section 361. That's the provision whereby the city is entitled to give rebates on taxes to various charitable organizations. Our position—and the city understands this—is that that section doesn't apply to us for two reasons. One, it's an annual rebate that can be given in the current year only, so it requires dealing with on an annual basis. The second thing: It cannot be retroactive. By now, we've come from 2003 to 2007 and we are asking for tax relief for cancellation of those taxes.

We have learned that there are various rented premises such as Master's has in the building at Yonge and Lawrence that are exempt from municipal taxes. Most of the university legislation that I checked—Trent, Ryerson, McMaster—have very general provisions exempting them from any property that they occupy and use for their educational purposes.

Other institutions have been given tax exemptions. I've looked at some recent private bills. It is most helpful that some of these are now available on the web. The Reena Foundation: There were some special circumstances for that, but it was rented property. The past taxes were cancelled in that situation. It had a sunset clause, and we've agreed to insert a sunset clause for ours at the termination of our lease. Ronald McDonald House in London: That was in 2005 and that applied to leased property in the city of London. More recently, the Perimeter Institute Act applied to freehold and leasehold property that they used and operated in their community, the city of Waterloo. Sheena's Place was also making representations when we were here last June. Their legis-

lation passed in December and it permitted a retroactive cancellation of taxes. In 2005 there was the Pontifical Institute of Mediaeval Studies. Section 15 of their act—that was an act that was setting up the institute; it was a new institute associated with St. Michael's—covered land vested in and land leased to and occupied by the institute that was exempt from taxes.

Since we were here in June, the Ministry of Finance has drafted a set of guidelines. I think that, given that Master's College is a charity—and again, I have verification of its charitable status to circulate if anyone has any questions about that, but it is a charity. I think that the only issue where we don't meet the guidelines is this issue of it being rented premises and the retroactivity, which the guidelines indicate that the government is not in favour of. I think that there are a couple of reasons. First of all, these guidelines came up well into our process and, in fact, after our first appearance to discuss this bill with this committee. Secondly, we do have the strong support of the city behind us on this issue, so they're well aware of any consequences to them of the passing of this legislation.

I guess the other factor is, I really think this is an appropriate situation for grandfathering because we are in that process, and I guess a reminder that they are guidelines; they're not hard-and-fast rules. I used to do some practising in the area of family law. When the support guidelines came in I found that in many judges' eyes they were very vague guidelines indeed, so I'm not even sure of the effect sometimes that people place on things like guidelines and the effect that they should have. But I would very much like this committee to give some consideration to this matter. I do think we have strong support from the city on this and I would hope that you, as a committee, would recommend to the Legislature that this bill be passed.

The Chair: Are there any other comments? Rev. Hazzard or Mr. Ariss?

Rev. David Hazzard: I think Ms. O'Brien has communicated our position well.

The Chair: Very good. Mr. Delaney?

Mr. Delaney: I guess I'll move the motion, then.

0920

The Chair: First, I should ask: Is there anybody else in the room who is interested in this issue and wanted to make representations to committee? No?

Is there any comment from any of the committee members?

Mr. Sergio: I'd like to hear the motion, Madam Chair, and then I'll make some comments.

The Chair: Yes. I'm going to take this through the process of going through the sections, and as we go through the sections Mr. Delaney will bring the appropriate amendments at the appropriate times. Is that okay?

Mr. Sergio: Sure.

The Chair: Very good.

So the members have Bill Pr28 in front of them. Yes, Mr. Martiniuk?

Mr. Martiniuk: I just have a question of the presenters.

The Chair: Absolutely. Now's the time.

Mr. Martiniuk: This is the second time we've dealt with it, and there was a sort of freeze put on by the finance department while they reviewed the whole field. I don't know whether I asked this question when you first were before the committee, but if this were owned by your institution, would it be exempt under the Assessment Act?

Ms. O'Brien: Yes, it would.

Mr. Martiniuk: Thank you.

The Chair: Are members of the committee ready, then, to go through the voting on the bill? Okay.

I believe before we even get to section 1, we have an amendment by Mr. Delaney.

Mr. Delaney: I move that section 9.1 of the Master's College and Seminary Act, 2001, as set out in section 1 of the bill, be struck out and the following substituted:

"Tax exemption bylaw

"9.1(1) The council of the city of Toronto may pass bylaws exempting the specified property from taxes for municipal purposes, other than local improvement rates, beginning January 1, 2007 and continuing to July 31, 2013 if,

"(a) the specified property is occupied and used solely for the purposes of Master's College and Seminary; and

"(b) Master's College and Seminary is a registered charity within the meaning of the Income Tax Act (Canada).

"Tax cancellation bylaw

"(2) The council of the city of Toronto may pass bylaws cancelling the taxes for municipal purposes, other than local improvement rates, on the specified property for the period from August 1, 2003 to December 31, 2003 and for the years 2004, 2005 and 2006.

"Taxes for school purposes exemption

"(3) If the council of the city of Toronto passes a bylaw under subsection (1), the specified property is also exempt from taxes for school purposes for so long as the bylaw remains in effect.

"Same

"(4) If the council of the city of Toronto passes a bylaw under subsection (2), the taxes for school purposes on the specified property are also cancelled for the period for which the taxes for municipal purposes, other than local improvement rates, are cancelled.

"Chargeback

"(5) Sections 301 (adjustments) and 318 (taxes collected on behalf of other bodies) of the City of Toronto Act, 2006 apply, with necessary modifications, to taxes cancelled under subsections (2) and (4).

"Definition

"(6) In this section,

"specified property" means the lands and premises used and occupied by Master's College and Seminary at 3080 Yonge Street in the city of Toronto, being part of the lands currently assessed as 1904116010059000000 and further described in schedule 1."

The Chair: Excellent. Any debate on the amendment, members?

Shall the amendment carry?

Then shall section 1, as amended, carry?

Mr. Sergio: Sorry, Madam Chair—

The Chair: Is there a problem?

Mr. Delaney: Could we go through that one more time, please?

The Chair: What's that?

Mr. Sergio: Madam Chair, with all due respect—

The Chair: I'm going through the bill. I called for the first amendment; it was to the first section. Now I'm calling for the vote on the section. I asked if there was any debate. Nobody wanted any debate. I asked if it was carried, and it was carried.

Mr. Sergio: Well—

The Chair: So, fine, if you want to have some debate. I've asked the members in the appropriate process and nobody spoke up. But that's fine. If there are some comments, that's fine.

Mr. Sergio: Madam Chair, with all due respect, I thought you said before that Mr. Delaney would be reading it and then we would be going to various comments, whoever wished to have comments.

The Chair: And I asked if there was any debate and nobody spoke up.

Mr. Gilles Bisson (Timmins-James Bay): Go on to the next section. It's passed, so it doesn't make any change.

The Chair: Nobody spoke up, so—

Mr. Martiniuk: I believe we carried it.

The Chair: I believe we did carry it. I believe we carried it. When I ask if there's any further debate, that's the opportunity to debate the bill. But there are more sections coming, so on any section there can be discussion.

Mr. Sergio: That's fine.

The Chair: So, shall section 1, as amended, carry? Okay, thank you.

Shall section 2, schedule—

Mr. Bisson: I want to talk about section 1 now. No, I'm just joking.

The Chair: Shall section 2, schedule 1, carry? If there is any debate on these sections, I'm certainly open to members who want to debate. You just need to let me know that you want to debate it, and we can. It's not a problem.

Mr. Sergio: No, I'll make my comments prior to going to the bill, Madam Chair.

The Chair: Pardon me? When we go right to the end?

Mr. Sergio: Yes.

The Chair: Okay.

Shall section 2, schedule 1, carry? Carried.

Shall section 3 carry? Carried.

Shall section 4 carry? Carried.

I believe Mr. Delaney has an amendment to the preamble.

Mr. Delaney: I move that the preamble to the bill be amended by striking out "to exempt certain land from

taxation for municipal and school purposes, other than local improvement rates, while the land is used for a specified purpose and to cancel the taxes for municipal and school purposes, other than local improvement rates, on the land for part of 2003 and for 2004 and 2005" and substituting "to exempt certain land from taxation for municipal and school purposes, other than local improvement rates, while the land is used for a specified purpose from January 1, 2007 to July 31, 2013 and to cancel the taxes for municipal and school purposes, other than local improvement rates, on the land for part of 2003 and for 2004, 2005 and 2006."

The Chair: Is there any debate on the amendment? Any debate on the amendment? Okay.

Shall the amendment carry? Carried.

Shall the preamble, as amended, carry? Carried.

Shall the title carry? Carried.

Shall the bill carry?

Interjection.

The Chair: As amended. Sorry.

Mr. Delaney: I think that Mr. Sergio had a comment.

The Chair: Okay.

Mr. Sergio: I gave you notice that I wanted to speak on the bill, Madam Chair.

The Chair: Very good. Mr. Sergio.

Mr. Sergio: I appreciate the effort of Mr. Delaney with respect to the introduction of this private bill, Madam Chair, and the applicant for coming back. However, concern was expressed before, when the bill appeared before the committee last time, from both the Ministry of Finance and the Ministry of Housing. They still have this concern, and I have to reiterate what we said before. The applicant knows that the city of Toronto has all the powers, especially now. Since the last time they were here, the city of Toronto has even more power to deal more fully with this particular situation. Therefore, I would like to again express the position of both ministries and move that the bill not be approved.

The Chair: Thank you, Mr. Sergio.

Is there any further debate?

Mr. Martiniuk: I have a question. We have already dealt with this bill once, and I understood that the whole area was going to be reviewed. I really don't understand. If the property were owned, this property would be exempt, but because the method of holding title is a rental—and it could be a 50-year rental. I mean, it isn't necessarily—it could be a long-term leasehold. To me, as a former lawyer, it's just a matter of holding title, and it doesn't change the use of the property; it doesn't change the intent of the property. It's merely the way one holds title, whether it's ownership, a long-term lease or a short-term lease. So I don't understand the concern of the finance minister. Perhaps Mr. Sergio could assist me, because I don't understand why the method of holding title and ownership of the land would alter the fact of whether or not these people should receive the benefit of carrying on this charitable use and be exempt from taxes.

The Chair: Mr. Sergio, did you want to try to respond?

0930

Mr. Sergio: Yes, briefly. I can sympathize with the comment from the member; however, the problem is the way the tax system is structured. This exemption would not guarantee the tenants the benefit of the tax exemption. You would get that if you owned the building, and this is the concern that both ministries continue to have. Doing otherwise would constitute a—

Mr. Bisson: Constitute what? I didn't hear the last word.

Mr. Sergio: I didn't finish.

Mr. Bisson: Oh, sorry.

Mr. Sergio: It would constitute a precedent. Therefore, the ministries continue to have some concern, and that is the main reason why I suggest not supporting the bill.

The Chair: Mr. Bisson.

Mr. Bisson: I think we want to hear from—they want to say something.

Ms. O'Brien: If I can just intervene here, I think the precedent has already occurred. It has been given for rented premises before. MPAC can easily calculate the benefit. Master's College and Seminary does have a 10-year lease, which has a specific provision—I sent a copy of that part of the lease to someone at the Ministry of Finance last week, which specifically requires the landlord to give credit to the tenant, the college, for any tax relief or benefit or tax exemption that the college may get or be entitled to. So I think that issue is covered. I can provide a copy for the committee—it must be in my briefcase—of that part of the lease.

If I could also perhaps refer to Mr. Sergio's comments about the amendments to the City of Toronto Act giving this relief, I reviewed that and spoke with counsel in the city's tax department last October and was clearly advised that the only comparable relief was that contained in section 329 of the City of Toronto Act, and that only provides, as I stated before, for annual relief by way of rebate each year and can have no retroactive effect. As you know, what we are requesting is a retroactive effect. She was quite clear that the city of Toronto could not help us with the relief we wanted and said, "You're just going to have to carry on with your attempts to amend the legislation."

I think there has been, as I listed in my initial remarks, some private legislation within this decade where rented land has been exempted. It has happened. Certainly older legislation covering institutions like McMaster, U of T and Ryerson has general clauses exempting any premises they rent and use for their purposes from taxation.

Mr. Bisson: I'm just wondering if either the clerk or leg. counsel could speak to that point, because it seems to me that—I've been on this committee for a number of years and I've seen where we've given exemptions before where there's been a lease. So I'm not so sure that there is a precedent being created here, and I'm just wondering if you can refresh our memories. I seem to remember when it was—I think it was in London, if I remember correctly. There was a bible college or some-

thing. I may have my towns mixed up, but I remember having this debate at one time a number of years ago.

Ms. Laura Hopkins: I have two private bills that the House has passed, one in 2002 for the Reena Foundation, which leased its premises, and the other for Ronald McDonald House in London—

Mr. Bisson: That was the one. It wasn't a bible college, though.

Ms. Hopkins: —which leased its premises. That was passed in 2005.

Mr. Bisson: So there is a precedent where we've done this before.

Ms. O'Brien: Even more recently than that, there was the Perimeter Institute Act, 2006, which referred to a leasehold being exempt, and the Pontifical Institute of Mediaeval Studies, which is associated with the Roman Catholic church and is a theological seminary of sorts; it has other factors with it. That was in 2005, and that referred to land leased as well.

Mr. Bisson: Just to my point: I hear what the parliamentary assistant is saying, but clearly, this committee and this House—more importantly, the Legislature—have already spoken to this and have already created the precedent that you can grant this type of legislation, even though the land is leased. So I would ask him to reconsider.

The Chair: Mr. Martiniuk and then Mr. Sergio.

Mr. Martiniuk: In addition to this specific case, I really would urge Mr. Sergio to go back to the ministry, because this is going to affect Toronto in particular as compared with other areas of the province. Because of the cost of land in Toronto, more and more charities are going to be forced to lease because they just can't afford to buy a piece of land. In Cambridge or up north, that's not going to be such a problem because the cost of land is correspondingly less. So I think it's a big-city problem, particularly in Toronto. Before we make a refusal, which would be a precedent, because this may—the values of land in Toronto are astronomical at this stage and are still increasing, unlike in the United States. I'm just concerned that we would be harming inadvertently a number of charities in the city of Toronto, with its millions of people.

I suggest that it really is of wider ramification. Before we refuse this one and set a precedent that rental properties are no longer going to be available under the Assessment Act for an exemption, I think that a good, hard look has to be taken at it. I certainly would like to know about the charities in Toronto and the effect of this bill on them.

Mr. Sergio: I can appreciate the expression of the member. I'm not privy to all of the information as to what conditions some of those applications may have been approved under, if indeed they were approved under the same conditions, but I can appreciate what the member is saying. If he wants to make a motion to defer until we get more information or the applicant provides more direct information—because I believe some of those applications contain some facts that are completely

different from this one here. For example, there is one that I remember with the Reena Foundation, where they specifically had an option to purchase the property as well. So instead, perhaps, of receiving a refusal today, I would welcome the opportunity, if given by the member, to defer the application and get more comment from the ministry.

Mr. Bisson: Well, to defer it is to kill it, because the House will sit for about another week and then we're gone into election mode.

Mr. Martiniuk: The bill disappears.

Mr. Bisson: The bill will die on the order paper, so that's not a very useful or friendly offer, I would argue.

Listen, we've done this before. I'd like to hear from Mr. Delaney as to whether other members of the government are prepared to vote in favour of this. If so, I say we move to the vote. In this case, you've got a parliamentary assistant who's being told what to do. What do the rest of the members of the committee want to do? I'll support it, Mr. Martiniuk will support it, and I take it Mr. Delaney will support it. It's his bill. Anybody else? We need one more and we've got a bill. This is called negotiations bicameral.

The Chair: Just to facilitate the committee's discussion, the committee is meeting again next week, so the issue becomes the vote. We can bring it back next week if that's enough time to deal with some of these pieces. Having said that, if we decide that the bill not be reported today—if we pretty much vote it down—then the bill dies.

Mr. Bisson: I'm just curious to see if there are enough members who are willing to vote for it on the other side.

The Chair: It looks like that's not going to happen, Mr. Bisson. But I appreciate your effort.

Mr. Bisson: No, there are some people there who want to speak. They've got their own voices.

The Chair: Mr. Rinaldi.

Mr. Lou Rinaldi (Northumberland): I think that if we do have another opportunity to compare—because as we deal with these issues, they are different, and I don't know what those differences are. It's easy with the stroke of a pen to say “yea” or “nay” because it sounds the same or it is the same. I'm glad that we do have another opportunity. So I would strongly support that we defer it until we clarify the questions that came up this morning. Mr. Sergio indicated that one of the issues is that there are some differences. So the top line may be the same and the intent may be the same, but there might be some technical ramifications, whatever they may be; I don't know. So I would recommend that.

0940

Mr. Martiniuk: May I move that this matter be deferred until next Wednesday for consideration of the comments of the ministry?

The Chair: We have a motion for deferral. If it's all right with you, Mr. Martiniuk, Mr. Leal had indicated that he wants to speak to this as well, so I'll just hear him out and then we'll go to your motion.

Mr. Leal: I certainly support the deferral, because I think there is an opportunity to get some additional information. Particularly as several other private bills that have gone through this committee have been approved, it seems to me that there may be similar circumstances that are quite relevant in this case.

During my time as a city councillor in Peterborough, we often looked at charitable issues and provided property tax exemptions in particular cases when relevant information was brought forward. We looked at precedents, not only in my own community but throughout Ontario, to make the ultimate determination.

This is one where I think some sober second thought and a week to do some additional research will be helpful. For 50 years, the Eastern Pentecostal Bible College had its headquarters in Peterborough, and I had a very long association, being a city councillor, working with that very fine and distinguished group of men and women. I think that to take a week is very fair at this particular time.

The Chair: Is there any further comment on the motion? Further comment? All right, then. Mr. Martiniuk has moved that we defer this until next week's agenda. Would the applicants be available to return next week?

Ms. O'Brien: Yes, we would be available. I'm not sure whether all of us would be, but I can certainly be here. I do have some copies of all the acts that have been referred to, which I can perhaps provide to the secretary.

The Chair: That would be helpful.

Ms. O'Brien: Of course, they're fairly readily available on the Net, but I have a few extra copies anyway and I can leave those. I had also looked at Hansard for the background of some of these, but I'm afraid I don't have extra copies.

I'm aware of the difference in the Reena situation; they were planning to purchase a house. But as far as I'm aware, there were no references to other issues, at least that came up before the committee. I don't know any further background than that.

I would also like to know if I can be of assistance in trying to collect any information for people and provide it as soon as I can to the secretary, who perhaps could circulate it.

The Chair: We appreciate that, Ms. O'Brien. In fact, I was going to suggest that anything you think is helpful, or if any members have any information they'd like you to provide, we can do all that through our clerk, Susan Sourial. That's a very helpful offer.

Mr. Martiniuk: I did not specify, but I assume that we will meet at 9 o'clock next Wednesday—

The Chair: Certainly.

Mr. Martiniuk: —so if it does pass, it could be reported to the House that day.

Mr. Bisson: I'll just give a caveat. It could be that the House is not here by Wednesday next week. I'll just let you know.

The Chair: I'm sorry?

Mr. Bisson: It could end up that the House may not sit at all next Wednesday. I'm just raising it as a possibility. It's a chance they take.

The Chair: I'm in the hands of the committee. We have a motion on the floor. If we do have committee next Wednesday and we are sitting in the House, then we will have time to report the bill to the House. The motion is on the table.

Mr. Martiniuk: Perhaps, after hearing from my friend, who no doubt is great friends with the House leader for the NDP—

Mr. Sergio: I think it's wonderful. He knows something that we don't.

Mr. Martiniuk: Yes, he may know something that we don't. Perhaps I'd best withdraw, because the bill will die again if we don't meet. That'll be the—

Mr. Bisson: The point I'm just—

Mr. Sergio: What if? What if?

Mr. Martiniuk: I withdraw the motion. I'm sorry; I withdraw it because the risk—it's really up to the group. Perhaps I would be guided by your wishes, because—

Interjections.

The Chair: Okay, okay. We're losing it here. Can I just ask members to speak through the Chair, please?

Mr. Martiniuk: Chair, I withdraw the motion.

The Chair: Thank you, Mr. Martiniuk.

Mr. Sergio.

Mr. Sergio: First of all, I was going to say, why 9 o'clock and not 10 o'clock? For those travelling from their own place to come down here, it's an hour and a half. Toronto in the morning is—

The Chair: It makes no difference. Our general time for the committee is 9:30, so it would likely be 9:30.

Mr. Sergio: That's fine. But there is a risk. I'm not sure how much Mr. Bisson knows with respect to next week about when the House may or may not rise. But if it doesn't and the bill should be defeated today, then I think we have lost everything, even the opportunity to know from the ministry what and if.

The Chair: I understand what you're saying.

Mr. Bisson and then Mr. Delaney.

Mr. Bisson: Now that I've created this havoc, let me get in.

The Chair: Yes. Thank you for that.

Mr. Bisson: You're quite welcome. I'm just seeing what can be done here.

My point was that there is a risk that it may not come back. I'm not saying there's a crystal ball and we're not going to be here, because I expect the House is either going to rise Wednesday or Thursday. I'm just saying there is a slight risk that you may not get another shot at this. If we're going to lose the bill today by way of a vote, I would say take the chance, defer it until next week and hope to hell that we do meet. But there is a risk that we may not. That's the point I was making.

The Chair: All right. Are you moving that, Mr. Bisson?

Mr. Bisson: Yes, I am.

The Chair: All right, you're moving deferral until next week.

Is there any further debate on this deferral motion?

Shall the motion carry?

Mr. Rinaldi: For deferral?

The Chair: Yes, the deferral motion. That's carried. Very good.

Thank you very much for your time today. We're going to ask you to come back next week, likely at 9:30, the usual time scheduled for our committee. Thank you for this debate. It was very helpful. Hopefully, next week we can resolve the issue. It will be resolved one way or the other, no matter what, next Wednesday. So at least you'll have—

Mr. Bisson: Maybe.

The Chair: Oh, no; likely.

Mr. Sergio: Madam Chair, before we go, can we have Mr. Bisson advise us if he knows when the House is rising?

The Chair: He can bring his crystal ball and we can all look at it.

Mr. Bisson: I'll bring it. I've got the little crystal ball in here.

The Chair: Thank you, everyone, for participating in the debate. We'll call the meeting adjourned. We'll see you next week.

The committee adjourned at 0948.



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